

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 3584/2023

Alok Basera Ex JWO-785232-T : Applicant
VERSUS
Union of India and Ors. : Respondents

For Applicant : Mr. Om Prakash, Advocate
For Respondents : Ms. Sheetal Raghuvanshi, Advocate

CORAM

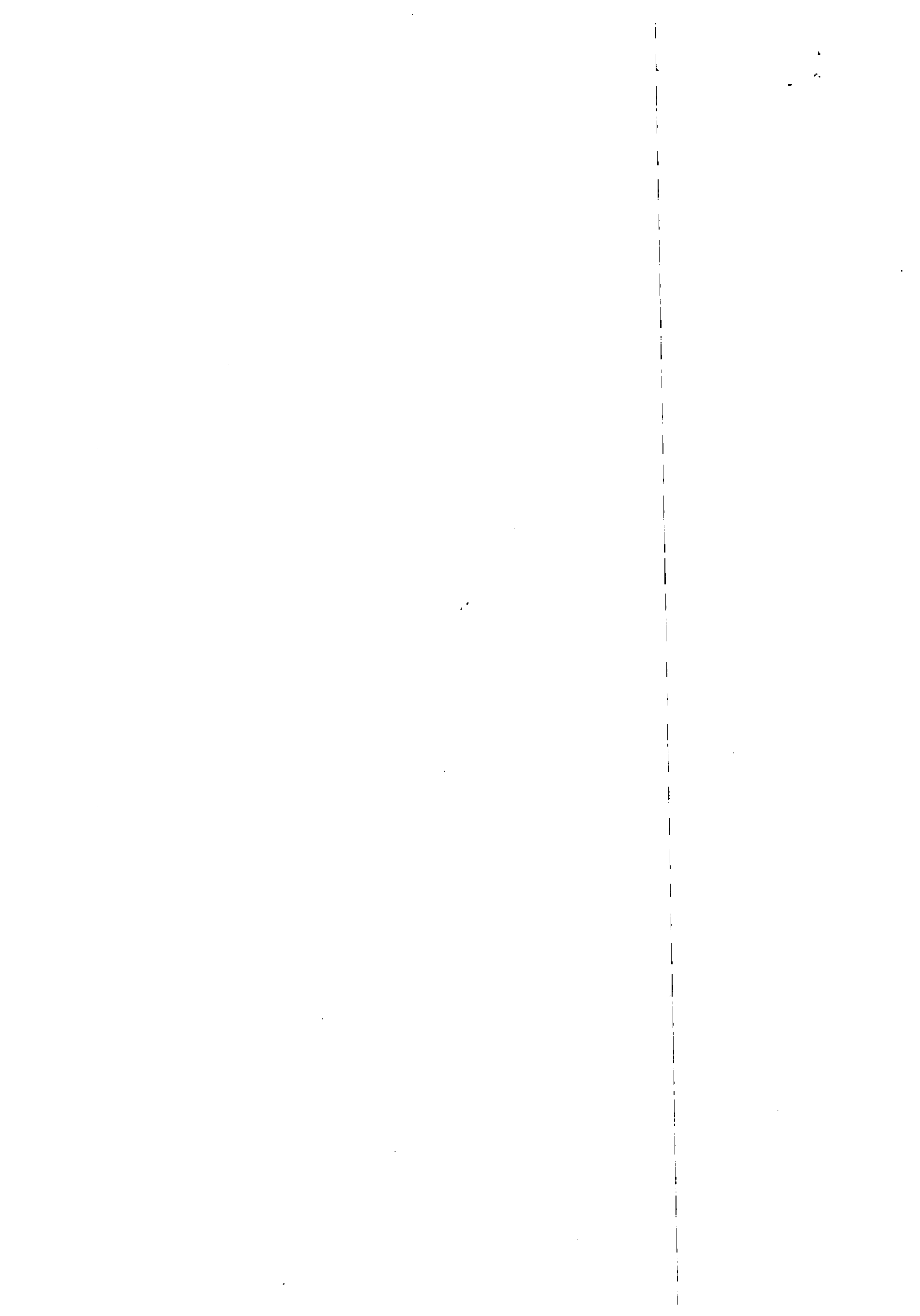
HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE Ms RASIKA CHAUBE, MEMBER (A)

ORDER
03.03.2025

The applicant, Alok Basera, Ex JWO-785232-T, vide the present OA makes the following prayers:

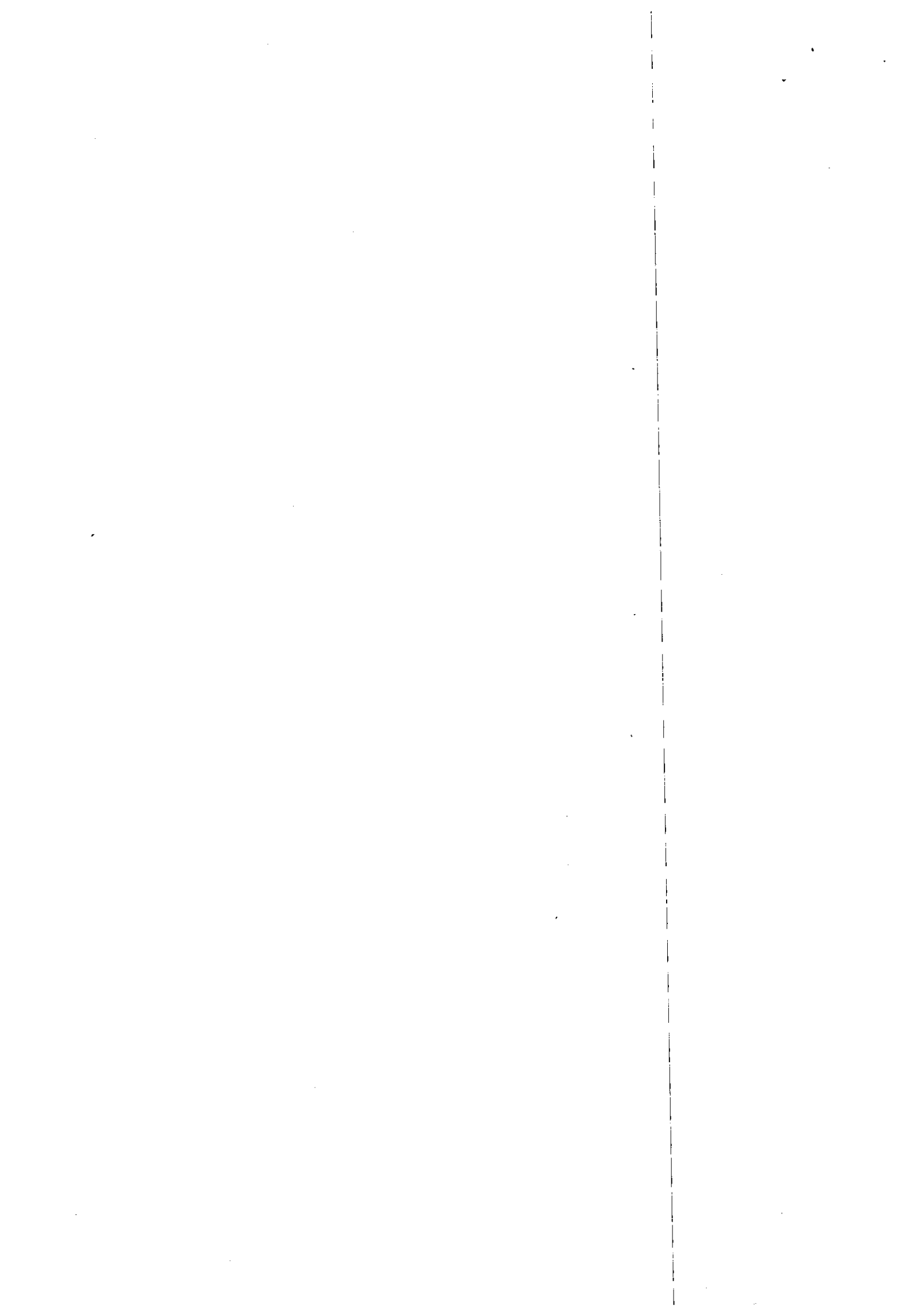
- a) *“ To direct to the respondents to issue the revised service pension PPO with benefits of the notional increment for 31st December, retirees to the applicant from the date of his discharge from the service i.e. 01.01.2023.*
- b) *To direct the respondents to pay arrears from the date of discharge i.e. 01.01.2023 alongwith interest @12% per annum till the realization of the payment to the applicant.*
- c) Pass any other or such further order or orders as deemed fit to this Hon'ble Tribunal in order to secure the ends of justice in favour of the applicant.”

2. The applicant was enrolled in the Indian Air Force on 16th December, 1996 and was discharged on 31st December, 2022 after rendering 26 years of service. The applicant submits that he was denied the benefit of increment, which was otherwise due to him, only on the ground that by the time the increment



became due, he was not in service. He was given his last annual increment on 1st January, 2022 and was denied the increment that fell due on 1st January, 2023 on the ground that after the 7th Central Pay Commission, the Central Government fixed 1st July/1st January as the date of increment for all Government employees.

3. Learned counsel for the applicant contends that after the 6th CPC submitted its report, the Government promulgated the acceptance of the recommendations with modifications through the Govt. Extraordinary Gazette Notification dated 29th August, 2008. This notification was also applicable to the Armed Forces personnel and implementation instructions for the respective Services clearly lay down that there will be a uniform date of annual increment, viz. 1st January/1st July of every year and that personnel completing 6 months and above in the revised pay structure as on the 1st day of January/July, will be eligible to be granted the increment. In this regard learned counsel for the applicant relied upon the law laid down by the Hon'ble High Court of Madras in the case of *P. Ayyamperumal Vs. The Registrar, Central Administrative Tribunal, Madras Bench and Ors.* (WP No.15732/2017) decided on 15th September, 2017. The Hon'ble High Court of Madras vide the said judgment referred to hereinabove held that the petitioner shall be given one notional increment for the purpose of pensionary benefits and not for any other purpose.



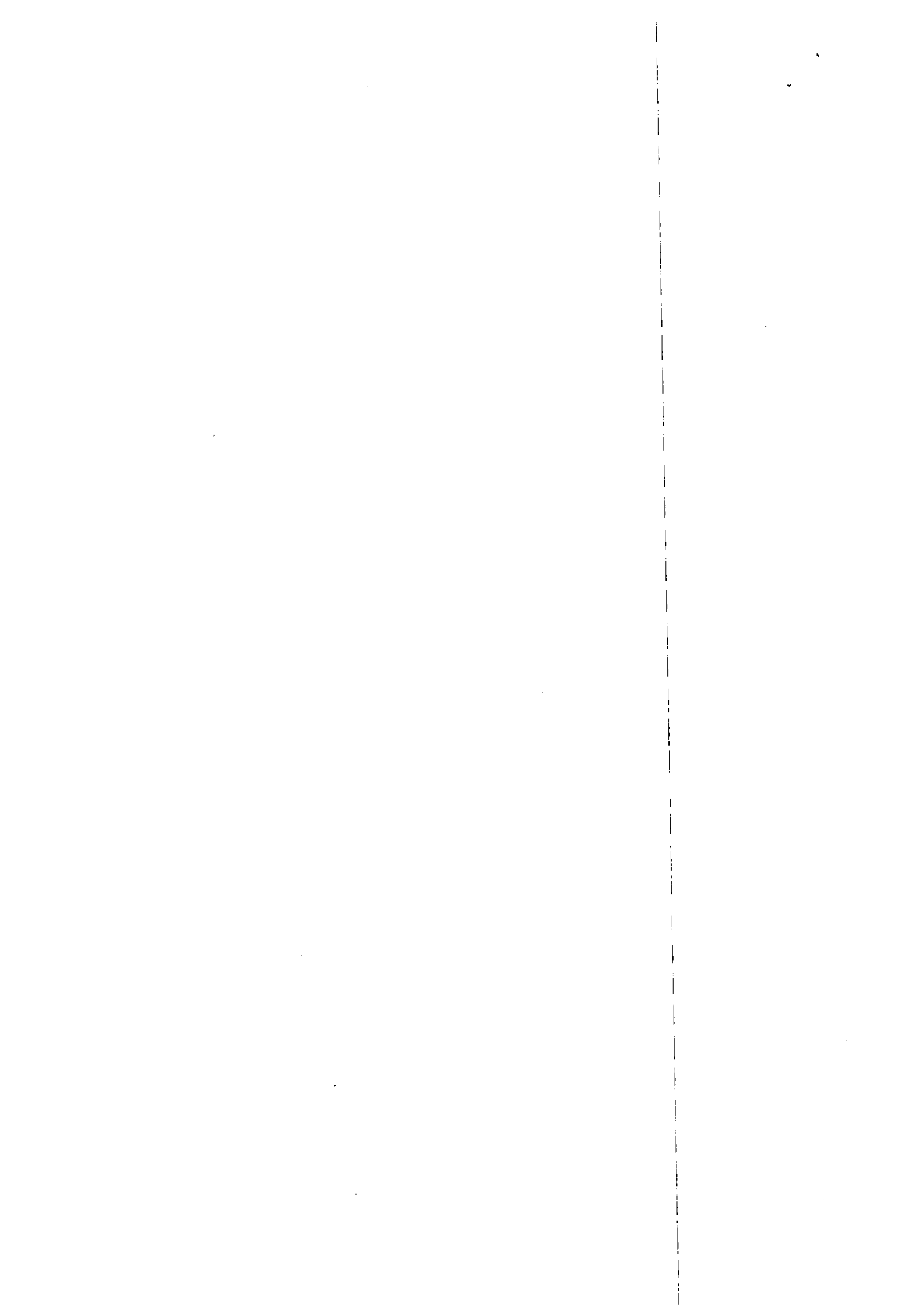
4. The respondents fairly do not dispute the settled proposition of law put forth on behalf of the applicant in view of the verdict(s) relied upon on behalf of the applicant.

5. The law on 'notional increment' has already been laid down by the Hon'ble High Court of Madras in the case of *P. Ayyamperumal* (supra) and in *State of Tamil Nadu, rep. By its Secretary to Government, Finance Department and Others Vs. M. Balasubramaniam*, reported in *CDJ 2012 MHC 6525*, wherein vide paras 5, 6 and 7 of the said judgment it was observed to the effect:

"5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation.

After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, ie., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its Secretary to Government, Finance Department and others v. M.Balasubramaniam,

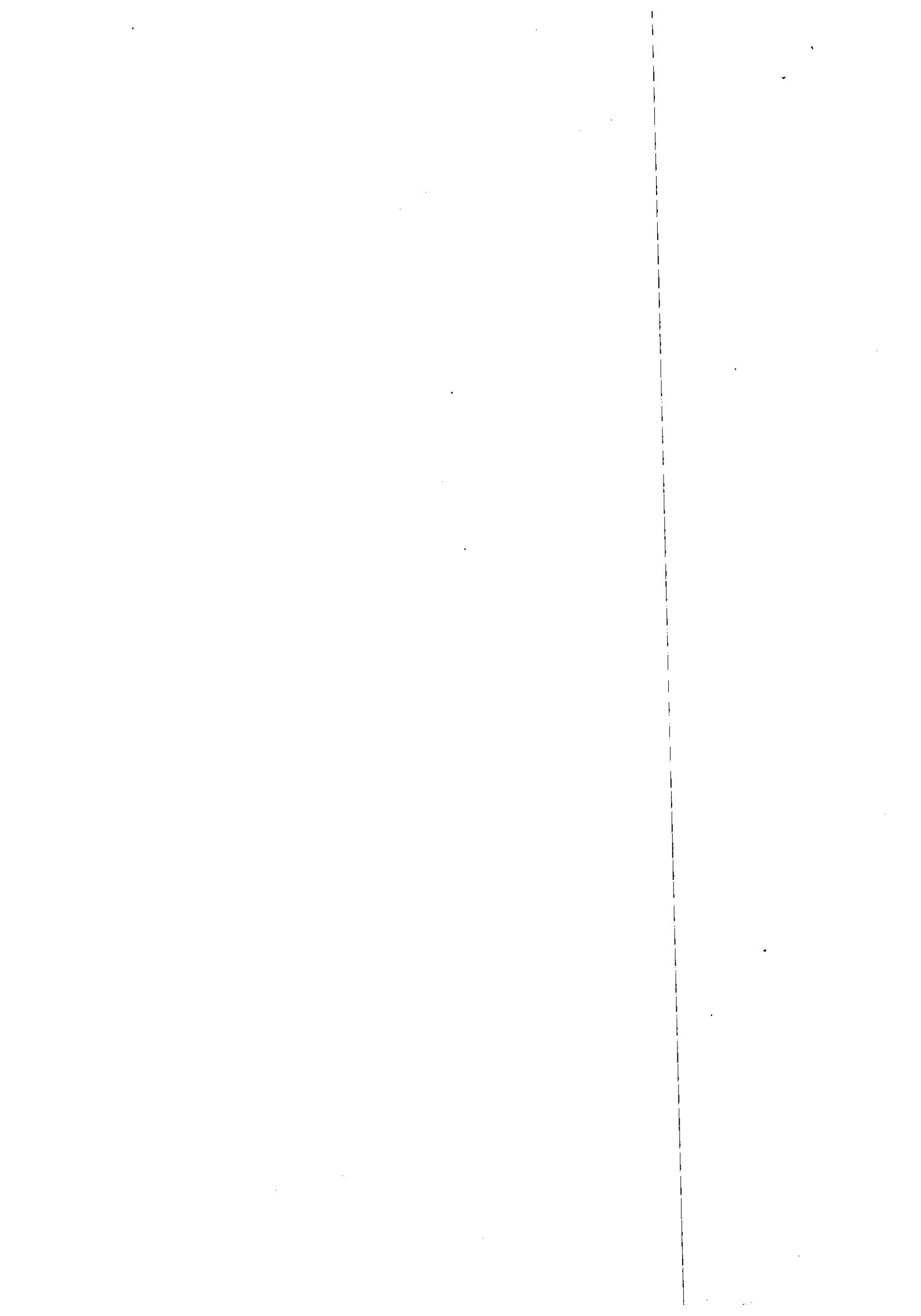


reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs."

6. The issue raised in this OA is squarely covered by a judgment rendered in Civil Appeal No. 2471 of 2023 decided on 11.04.2023 titled as Director (Admn. And HR) KPTCL and Others Vs. C.P. Mundinamani and Others (2023) SCC Online SC 401.

7. Moreover, the issue referred to under consideration in the present OA is no longer *res integra* in view of the SLP (Civil) Dy No.22283/2018 against the judgment dated 15.09.2017 of the



Hon'ble High Court of Madras in the case of P. Ayyamperumal (supra) having been dismissed vide order dated 23.07.2018. Vide order dated 19.05.2023 of the Hon'ble Supreme Court in SLP (C) No. 4722 of 2021) Union of India & Anr Vs. M. Siddaraj, further modified by the Hon'ble Supreme Court of India on 06.09.2024 in MA Dy. No. 2400/2024 filed in SLP (C) No. 3933/2023 it was directed to the effect.

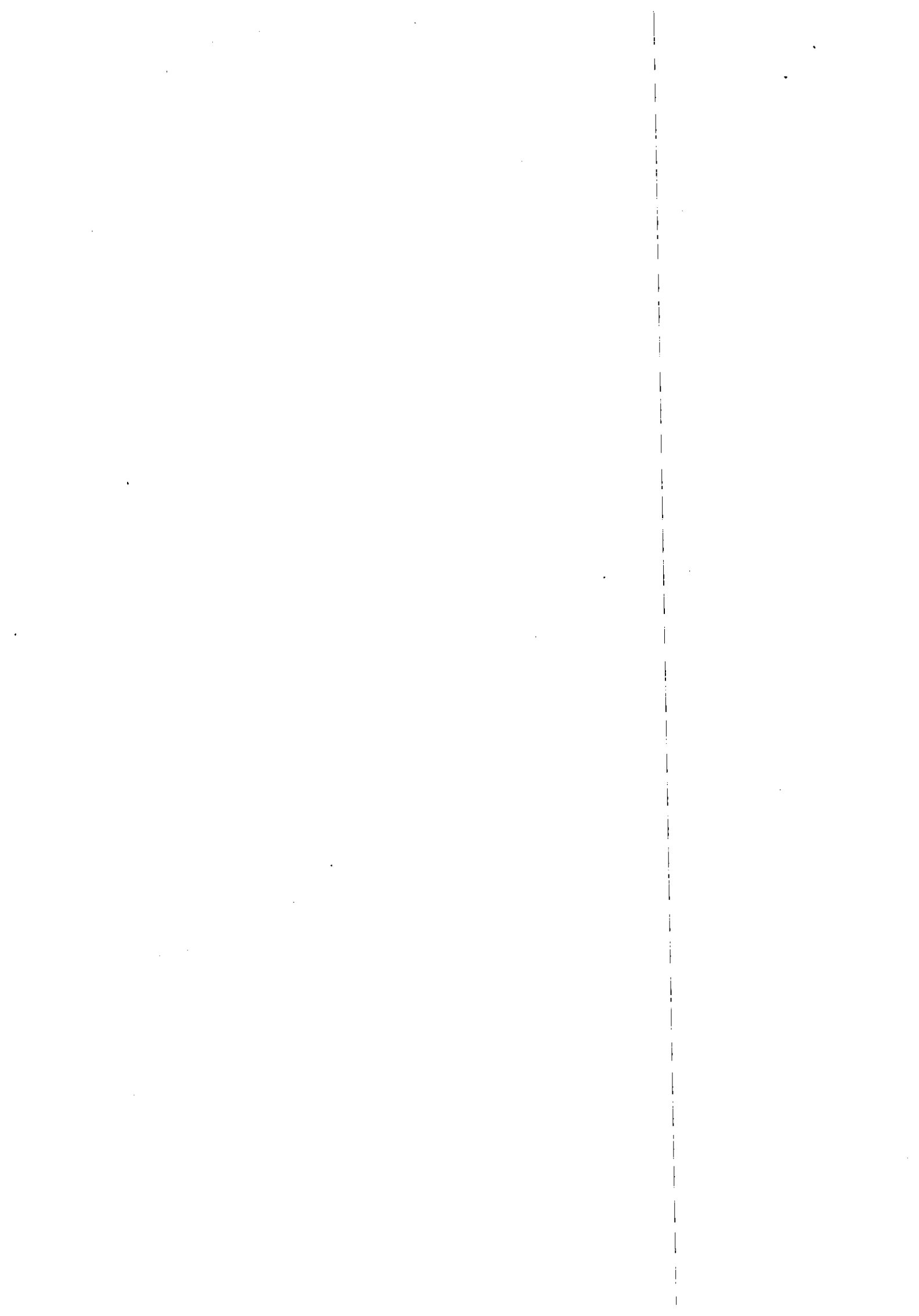
(a) The judgment dated 11.04.2023 will be given effect to in case of third parties from the date of the judgment, that is, the pension by taking into account one increment will be payable on and after 01.05.2023. Enhanced pension for the period prior to 31.04.2023 will not be paid.

(b) For persons who have filed writ petitions and succeeded, the directions given in the said judgment will operate as res judicata, and accordingly, an enhanced pension by taking one increment would have to be paid.

(c) . The direction in (b) will not apply, where the judgment has not attained finality, and cases where an appeal has been preferred, or if filed, is entertained by the appellate court.

(d) In case any retired employee has filed any application for intervention/impleadment in Civil Appeal No. 3933/2023 or any other writ petitions and a beneficial order has been passed, the enhanced pension by including one increment will be payable from the month in which the application for intervention/impleadment was filed.

8. Thereafter, MA Diary No.2400/2024 in Civil Appeal No.3933/2023 has been finally decided by the Hon'ble



Supreme Court on 20.02.2025 and the final directions while disposing of the matter read as under:

“ We are inclined to dispose of the present miscellaneous applications directing that Clauses (a), (b), and (c) of the order dated 06.09.2024 will be treated as final directions. We are, however, of the opinion that clause (d) of the order dated 06.09.2024 requires modifications, which shall now read as under:

“(d) In case any retired employee filed an application for intervention/impleadment/writ petition/original application before the Central Administrative Tribunal/High Courts/this Court, the enhanced pension by including one increment will be payable for the period of three years prior to the month in which the application for intervention/impleadment/writ petition/original application was filed.

Further, clause (d) will not apply to the retired government employee who filed a writ petition/original application or an application for intervention before the Central Administrative Tribunal/High Court/ this Court after the judgment in “Union of India & Anr. Vs. Siddaraj”, as in such cases, clause (a) will apply.

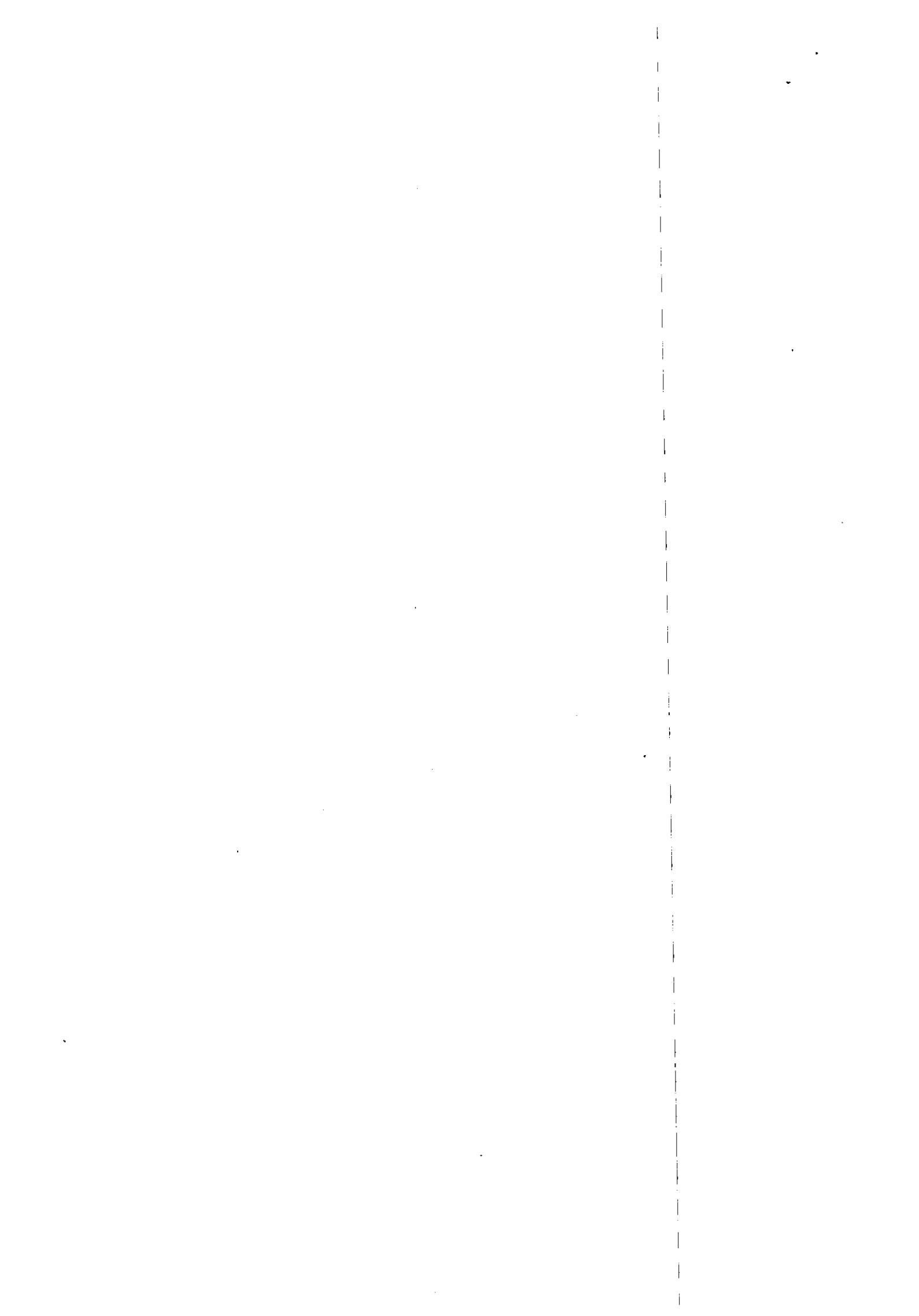
Recording the aforesaid, the miscellaneous applications are disposed of.

We, further, clarify that in case any excess payment has already been made, including arrears, such amount paid will not be recovered.

It will be open to any person aggrieved by non-compliance with the directions and the clarification of this Court, in the present order, to approach the concerned authorities in the first instance and, if required the Administrative Tribunal or High Court, as per law.

Pending applications including all intervention/impleadment applications shall stand disposed of in terms of this order.”

9. In view of the above, the claim of the applicant is required to be decided by the concerned authority for



the grant of increment as prayed in accordance with the direction issued by the Hon'ble Supreme Court on 20.02.2025 in MA Diary No.2400/2024 in Civil Appeal No.3933/2023.

10. Accordingly, the OA is disposed of with a direction to the Competent Authority to take note of the order passed by the Hon'ble Supreme Court on 20.02.2025 in MA Diary No.2400/2024 in Civil Appeal No.3933/2023, as detailed hereinabove and settle the claim of the applicant in accordance with the said directions within a period of three months from the date of receipt of a copy of this order.

11. That apart, if, on verification, the respondents find that the applicant is not entitled to the benefit of one notional increment, they may take note of the same and decide by a speaking order.

12. There shall be no order as to costs.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(Ms RASIKA CHAUBE)
MEMBER (A)

/CHANANA/

