

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

56.

MA 5889/2025 IN OA 1775/2025

Ex Hav Mohammad Shamshuddin Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Devendra Kumar, Advocate
For Respondents : Mr. Kuldeep Singh, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

O R D E R
23.02.2026

Vide order passed on 02.07.2025 in OA No.1775/2024 based on the judgment rendered in the case of Ayyamperumal Vs. The Registrar, Central Administrative Tribunal, Madras Bench and Ors. (WP No.15732/2017) decided on 15.09.2017 and the Hon'ble Supreme Court rendered in Civil Appeal No.2471 of 2023 decided on 11.04.2023 titled as Director (Admn. And HR) KFTCL and Others Vs. C.P. Muddinamani and Others [(2023) SCC Online SC 401] as also in SLP(C) No.4722 of 2021- Union of India & Anr. v. M. Siddaraj, respondents were directed to pay the benefit of one notional increment to the applicant for the period from 01.07.2015 to 30.06.2016 that was the day on which he was discharged. Respondents were also granted

liberty of passing a speaking order if for any reason whatsoever they find that the applicant is not entitled to the same.

2. Now, respondents have passed a speaking order on 10.09.2025 and in the said order, the following reasons have been given for rejecting the claim of the applicant:-

"5. And Whereas, it is submitted that, as per Para 3(b) of AG/PS-6, IHQ of MoD (Army) letter No B/37933/Court Case/NI/AC/PS-6(B)/2025 dated 23 June 2025, that the applicant is not eligible for notional increment being discharged from service under Army Rule 13 (3) III (iv) at his own request before fulfilling the condition of enrolment or service.

8. As per Para 3 (b) of AG/PS-6, IHQ of MoD (Army) letter No B/37933/Court Case/NI/AC/PS-6(B)/2025 dated 23 June 2025. Those cases wherein the individual had proceeded on voluntary retirement/discharge from service on medical/discipline grounds a suitable Speaking order be issued by the concerned Record Officer/Line Dte to the individual explaining his ineligibility for notional increment. ."

and in Para 5 the reason rejecting the claim of the applicant is that as the applicant sought discharge from service on his own accord and was discharged under Rule 13(3) of the Army Rule 1954, he is not entitled to the increment.

3. However, the fact remains that the applicant had worked from 01.07.2015 to 30.06.2016 and having worked for 12 months has earned one increment for the service rendered. Similar issue has been dealt with in detail by this Tribunal in the following matter and the order passed in the said case on 28.11.2025 reads as under:- ~

"4. In our considered view, the right for denying increment to a person who has earned increment as per contract of service is only available to the departmental authorities when increment is curtailed or denied to a person by way of punishment for acts of omission or commission (misconduct committed by him) under the service rules. Merely because a person seeks voluntary retirement, voluntary resignation or voluntary discharge from service, the increment earned by him having worked for the preceding 12 months cannot be curtailed. The manner of termination of the contract of service will not determine the entitlement for increment of a person. The increment having been earned by a person for working for 12 months becomes a property under Article 300(a) of the Constitution and it can only be curtailed or taken away in accordance with the rules and regulations applicable. No rule rules or regulation is brought to our notice which contemplates that if a person takes voluntary retirement, resignation or voluntary discharge, he is not entitled to increment. That being so, the speaking order passed by the respondents, in our considered view, is unsustainable in law and cannot be maintained and, therefore, in exercise of the suo motu powers available to us, the speaking order passed by the respondents on 30.07.2025, in the present case, for the reasons indicated hereinabove, is quashed and the respondents are directed to pay increment to the applicant within thirty days from today."

4. In view of the above, exercising our suo motu power in the matter and to do substantial justice to the applicant, we quash the speaking order dated 10.09.2025 and direct the respondents to ensure grant of one notional increment to the applicant for the service rendered by him from 01.07.2015 to 30.06.2016. Action be taken for implementing this order within two months.

5. Accordingly, the MA stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[RASIKA CHAUBE]
MEMBER (A)

