

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

42.

OA No. 3303/2025

JC-377008L Nb Sub Pawan Kumar Jha (Retd) Applicant
VERSUS

Union of India and Ors. Respondents

For Applicant : Mr Bipin Behari, Advocate

For Respondents: Mr Aseem Kumar Sahay, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)

HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

The applicant JC-377008L Nb Sub Pawan Kumar Jha (Retd)

vide the present OA makes the following prayers:

- a) *“Quash the letter No. P/JC377008/LC/T-2/PC-1331 dated 19.07.2025 and policy cited therein as ultravires the Central Pay Commission Policy on the same issue and discriminatory under the Constitution of India; or/and*
- b) *Direct the respondents to grant notional increment and issue the revised service Pension PPO with benefits of notional increment for the period of 01.07.2009 to 30.06.2010 to the applicant from date of discharge wef 01.07.2010 consequently, revise and pay retiral benefits of the applicant.*

- c) *Direct the respondents to pay the due arrears from the date of discharge wef 01.07.2010 with interest @12% p.a. with all the consequential benefits till realisation of payment to the applicant.*
- d) *Award the cost of Rs.25,000/- of the application to the applicant.*
- e) *Any other relief which the Hon'ble Tribunal may deem fit and proper in the circumstances of the case"*

2. The applicant was enrolled in the **Indian Army** on **21st March, 1988** and was discharged from service on **30th June, 2010** after rendering about 22 years 3 months and 11 days 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 July, 2009** and was denied the increment that fell due on **1st July, 2010 for the period 01.07.2009 to 30.06.2010** 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. Vide paras 5, 6 and 7 of the order dated 03.04.2025 of the Armed Forces Tribunal (PB) in OA 892/2025 filed by the applicant seeking grant of notional increment, it was directed to the effect:

"5. 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.

6. 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.

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

4. Pursuant to that, the respondents vide the impugned Order No. P/JC-377008L/LC/T-2/PC-1331 dated 19.07.2025 stated that the applicant is found not entitled for the grant of one notional increment on the ground that the all those persons who had opted for voluntary retirement from service/discharged from service due to medical reasons/discp issues etc are not eligible for said benefit of the Notional Increment. Vide the said impugned order dated 19.07.2025, it was stated to the effect:

"SPEAKING ORDER IN COMPLIANCE WITH MPLEMENTATION OF THE HON'BLE ARMED FORCES TRIBUNAL (PB) NEW DELHI ORDER DATED 03 APR 2025 PASSED IN OA NO. 892/2025 FILED BY JC-377008L EX NB SUB PAWAN KUAMR JHA VS UNION OF INDIA & OTHERS.

1. *With due deference to the directions dated 03 Apr 2025 of Hon'ble AFT(PB), New Delhi, this reasons Speaking Order is being passed.*
2. *WHEREAS, you enrolled in the Army on 21 Mar 1988 and discharged from service on 30 Jun 2010 under Army Rule 13(3) item 1(i)(b) on your own request on compassionate grounds.*
3. *WHEREAS, you had filed on Original Application No.892/2025 in the Hon'ble AFT(PB) New Delhi for relief "to release one Notional Increment for the period from 01 Jul 2009 to 30 Jun 2010 for the purpose of pensionary benefits to you."*
4. *AND WHEREAS, the Hon'ble AFT(PB) New Delhi vide its order dated 03 Apr 2025 had disposed of the OA in initial hearing without considering of Brief of Case and Para Wise Comments with following directions to the respondents:*

"4.1 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.

4.2 If, on verification, the respondents find that the applicant is not entitled to the benefit of one notional increment, they are free to take note of the same and decide it by a speaking order."

5. *AND WHEREAS, clarification regarding grant of Notional Increment recd from Integrated Headquarters of Ministry of Defence(Army), Adjutant General's Branch Addl Dte Gen Pers Services/PS-6 vide letter No. B/37933/Court Case/NI/AC/PS 6(B)/2025 dated 23 Jun 2025 that all those pers who had opted for voluntary retirement from service/discharged from service due to medical reasons/discp issues etc are not eligible for said benefit of the Notional Increment.*

6. *AND PURSUANT THEREOF, in the light of the above, you are not found eligible for grant of notional increment on 01 Jul 2010 as you were discharged from service on own request. Thus, by issuance of this reasoned speaking order, the Hon'ble AFT(PB) New Delhi dated 03 Apr 2025, passed in OA No.892/2025, stands complied with."*

(emphasis supplied)

5. Vide order dated 27.10.2025, the respondents were directed to produce the Policy referred to in Para 5 of the impugned Order dated 19.07.2025 issued vide Letter No. B/37933/Court Case/NI/AC/PS-6(b) dated 23.06.2025 i.e. the letter mentioned in Para 5 reproduced hereinabove as stated in the impugned order. A copy of the said letter dated 23.06.2025 issued by the Integrated HQ of MoD(Army) Adjutant General's Branch, Addl Dte Gen Pers Services/PS-6 No. B/37933/Court Case/PS 6(13)/2025 (NIAC) has been produced by the respondents on 05.01.2025. The respondents' said document dated 23.06.2025 reads to the effect:

“COURT CASES RELATED TO NOTIONAL INCREMENT
AT THE TIME OF RETIREMENT”

1. Ref. Supreme Court Final Order dt 20 Feb 2025 on subject and DoP&T OM No.19/116/2024-PersPol(Pay)(Pt) dated 20 May 2025.
2. As per the above ref DoP&T OM the benefits of notional increment are applicable to the Central Government employees who have rendered the requisite qualifying service as on date of their superannuation with satisfactory work and good conduct. **Accordingly, all those pers who had opted for voluntary retirement from services/discharged from service due to medical reasons/dicp issues are not eligible for said benefit of the Notional Increment.**
3. In view of the above, the fwg pts are intimated:
 - a) Case files be examined carefully and only those files be sent for implementation to PS-6 wherein the indl had superannuated post completion of his qualifying services.
 - b) **Those cases wherein indl had proceeded on voluntary retirement/dich from service on medical/discp grounds, a**

suitable Speaking Order be issued by the concerned Record Office/Line Dte to the indl explaining his ineligibility for notional increment.

- c) In case the service personnel has not superannuated from the service but GSL has been issued for implementation of benefits of notional increment then such GSLs are to be treated as satisfied.
4. The cases are being implemented as per Supreme Court final order dated 20 Feb 2025 and DoP&T OMN No.19/116/2024 Pers Pol(Py/Pt) dated 20 May 2025 on subject as under:
 - a) For those cases wherein the indl had filed OA/WP before 19 May 23, the person by taking into account one increment will be payable for the period of three years prior to the month in which the application/writ Petition/Original Application was filed.
 - b) For those cases wherein the indl had filed OA/WP after 19 May 23, the person by taking into account one increment will be payable on and after 01 My 2023.
 - c) The benefit is only for enhanced pension and not only any other pensionary benefits.
 - d) As per dirns of Hon'ble Supreme Court no penal interest is being granted.
 - e) The case file to be processed subject to certificate endorsed by Record Office wrt Indl's work and good conduct.
5. All Record Offices & Line Dte are requested to ensure eligibility of indl's as per a/m pts before processing the case files to PS Dte."

6. Thus, it becomes apparent therefrom that the respondents seek to contend that because the applicant was discharged from service on his own request on compassionate grounds though the applicant had completed the requirement of one year of service for the period 01.07.2009 to 30.06.2010, the applicant is not entitled to the grant of one notional increment for the said period.

7. In view of the judgment of the Hon'ble Supreme Court in Civil Appeal 1943/2022 in *Lt Col Suprita Chandel vs. UOI & Ors.* whereby vide Paras-14 and 15 thereof, it has been observed to the effect:-

"14. It is a well settled principle of law that where a citizen aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court. [See Amrit Lal Berry vs. Collector of Central Excise, New Delhi and Others, (1975) 4 SCC 714]

15. In K.I. Shephard and Others vs. Union of India and Others, (1987) 4 SCC 431, this Court while reinforcing the above principle held as under:-

"19. The writ petitions and the appeals must succeed. We set aside the impugned judgments of the Single Judge and Division Bench of the Kerala High Court and direct that each of the three transferee banks should take over the excluded employees on the same terms and conditions of employment under the respective banking companies prior to amalgamation. The employees would be entitled to the benefit of continuity of service for all purposes including salary and

perks throughout the period. We leave it open to the transferee banks to take such action as they consider proper against these employees in accordance with law. Some of the excluded employees have not come to court. There is no justification to penalise them for not having litigated. They too shall be entitled to the same benefits as the petitioners.”

(Emphasis Supplied)”,

all persons aggrieved by a Govt action and similarly situated as those who have obtained a declaration of law in his/her favour may not litigate on the same issue and would be entitled to the grant of the benefits which have already been extended to others similarly situated without the need for them to go to Court .

8. 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. The applicant's representation dated 07.08.2024 for the grant of one notional increment was rejected/replied by the respondents vide letter 7431438M/NER/SP/01/2002 dated 07.09.2024 which is to the effect:

**" GRIEVANCE REGISTRATION NUMBER
DOPPW/E/2024/0052813 DATED 31 JUL 2024
REGARDING NOTIONAL INCREMENT IN BASIC**

**PAY IN RESPECT OF NO.7431438M EX HAV B
VITAL SWAMI**

1. Please refer to CPGRAM Grievance Registration No. DOPPW/E/2024/0052813 dated 31 Aug 2024.
2. It is intimated that neither Int Records nor PAO(OR)Int Corps has received any policy or circular regarding grant of notional increment till date. Moreover, the case was processed to competent authority of clarification. However, there is no such provision/direction till the date regarding grant of notional increment. Hence, in the absence of directions or policy on the subject matter this office is unable to grant Notional Increment in basic pay.
3. In addition, it is assured that in future, if this office will receive any dirns from competent authority on the subject matter then action will be taken accordingly."

9. 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, i.e., 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."*

10. The issue raised in this OA is squarely covered vide the judgment rendered in Civil Appeal No. 2471 of 2023 by the Hon'ble Supreme Court on 11.04.2023 titled as *Director (Admn. And HR) KPTCL and Others Vs. C.P. Mundinamani and Others (2023)* SCC Online SC 401 observing vide Para 6.7 thereof to the effect:

“Similar view has also been expressed by different High Courts, namely, the Gujarat High Court, the Madhya Pradesh High Court, the Orissa High Court and the Madras High Court. As observed hereinabove, to interpret Regulation 40(1) of the Regulations in the manner in which the appellants have understood and/or interpreted would lead to arbitrariness and denying a government servant the benefit of annual increment which he has already earned while rendering specified period of service with good conduct and efficiently in the last preceding year. It would be punishing a person for no fault of him. As observed hereinabove, the increment can be withheld only by way of punishment or he has not performed the duty efficiently. Any interpretation which would lead to arbitrariness and/or unreasonableness should be avoided. If the interpretation as suggested on behalf of the appellants and the view taken by the Full Bench of the Andhra Pradesh High Court is accepted, in that case it would tantamount to denying a government servant the annual increment which he has earned for the services he has rendered over a which he has already earned while rendering specified period of service with good conduct and efficiently in the last preceding year. It would be punishing a person for no fault of him. As observed hereinabove, the increment can be withheld only by way of punishment or he has not performed the duty efficiently. Any interpretation which would lead to arbitrariness and/or unreasonableness should be

avoided. If the interpretation as suggested on behalf of the appellants and the view taken by the Full Bench of the Andhra Pradesh High Court is accepted, in that case it would tantamount to denying a government servant the annual increment which he has earned for the services he has rendered over a behaviour and efficiently and therefore, such a narrow interpretation should be avoided. We are in complete agreement with the view taken by the Madras High Court in the case of P. Ayyamperumal (supra); the Delhi High Court in the case of Gopal Singh (supra); the Allahabad High Court in the case of Nand Vijay Singh (supra); the Madhya Pradesh High Court in the case of Yogendra Singh Bhadauria (supra); the Orissa High Court in the case of AFR Arun Kumar Biswal (supra); and the Gujarat High Court in the case of Takhatsinh Udesinh Songara (supra). We do not approve the contrary view taken by the Full Bench of the Andhra Pradesh High Court in the case of Principal Accountant-General, Andhra Pradesh (supra) and the decisions of the Kerala High Court in the case of Union of India Vs. Pavithran (O.P.(CAT) No. 111/2020 decided on 22.11.2022) and the Himachal Pradesh High Court in the case of Hari Prakash Vs. State of Himachal Pradesh & Ors. (CWP No. 2503/2016 decided on 06.11.2020)."

11. Furthermore, vide order dated 18.12.2024 of the Hon'ble Supreme Court, the Review Petition being Review Petition(C) Diary No.36418/2024 in Civil Appeal No.(s) 2471/2023 seeking a review of the aforesaid verdict was dismissed *inter alia* on merits observing to the effect:

"Moreover, there is inordinate delay of 461days in preferring the Review Petition, which has not been satisfactorily explained.

Even otherwise, having carefully gone through the Review Petition, the order under challenge and the papers annexed therewith, we are satisfied that there is no error apparent on the face of the record, warranting reconsideration of the order impugned."

12. 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) in W.P. 15732/2017 having been dismissed vide order dated 23.07.2018 by the Hon'ble Supreme Court. 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 Misc. Application Dy. No. 2400/2024 filed in SLP (C) No. 4722/2021 it was directed to the effect:-

"It is stated that the Review Petition in Diary No. 36418/2024 filed by the Union of India is pending. The issue raised in the present applications requires consideration, insofar as the date of applicability of the judgment dated 11.04.2023 in Civil Appeal No. 2471/2023, titled "Director (Admn. and HR) KPTCL and Others v. C.P. Mundinamani and Others", to third parties is concerned.

We are informed that a large number of fresh writ petitions have been filed.

To prevent any further litigation and confusion, by of an interim order we direct that:

(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 petition 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."

13. Significantly, vide letter dated 14.10.2024 vide Para 7, the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel and Training issued an Office Memorandum No. 19/116/2024-Pers.Pol (Pay) (Pt) wherein para 7 reads to the effect:

"Subject: Grant of notional increment on Ist July/Ist January to the employees who retired from Central Govt. service on 30th June/31st December respectively for the purpose of calculating their pensionary benefits-regarding.

"7. The matter has been examined in consultation with D/o Expenditure and D/o Legal Affairs. It is advised that in pursuance of the Order dated 06.09.2024 of the Hon'ble Supreme Court referred above, action may be taken to allow the increment on Ist July/Ist January to the Central Government employees who retired/are retiring a day before it became due i.e. on 30th June/31st

December and have rendered the requisite qualifying service as on the date of their superannuation with satisfactory work and conduct for calculating the pension admissible to them. As specifically mentioned in the Orders of the Supreme Court, grant of the notional increment on 1st January/1st July shall be reckoned only for the purpose of calculating the pension admissible and not for the purpose of calculation of other pensionary benefits"

14. Vide letter dated 23.12.2024 of the Govt of India, Ministry of Defence, vide para 2, it was stated to the effect:

"2. It is to convey the sanction of the Competent Authority to extend the provisions contained in DoP&T O.M. No.19/116/2024.Pers/Pol(Pay)(Pt) dated 14th October,2024 to Armed Forces Personnel. A copy of ibid DoP&T O.M. is enclosed herewith for reference."

15. Thereafter, Miscellaneous Application Dy 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:

"Miscellaneous Application Diary Nos. 2400/2024, 35783/2024, 35785/2024 and 35786/2024.

Delay condoned.

We had passed the following interim order dated 06.09.2024, the operative portion of which reads as under:

"(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 petition 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."

"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."

Contempt Petition(Civil) Diary Nos. 8437/2023, 38438/2023, 11336/2024 and 20636/2024.

In view of the order passed today in the connected matters, that is, M.A. Diary No. 2400 OF 2024 and other connected applications, the present contempt petitions will be treated as disposed of with liberty to the petitioners to take recourse to appropriate remedies, if required and necessary, as indicated supra. It goes without saying that the respondents shall examine the cases of the petitioners/ applicants in terms of the order passed today and comply with the same expeditiously.

Pending application(s), if any, shall stand disposed of."

16. It is apparent that in view of judgement dated 11.04.2023 of the Hon'ble Supreme Court in case titled *The Director(Admn. And HR) KPTCL & Ors Vs C .P. Muddinamani & Ors.*, as observed vide paraS 6 & 7 thereof which are reproduced as under:

"The short question which is posed for the consideration of this Court is whether an employee who has earned the annual increment is entitled to the same despite the fact that he has retired on the very next day of earning the increment?"

6.1 In the present case, the relevant provision is Regulation 40(1) of the Regulations which reads as under: -

“Drawals and postponements of increments 40(1) An increment accrues from the day following that on which it is earned. An increment that has accrued shall ordinarily be drawn as a matter of course unless it is withheld. An increment may be withheld from an employee by the competent authority, if his conduct has not been good, or his work has not been satisfactory. In ordering the withholding of an increment, the withholding authority shall state the period for which it is withheld, and whether the postponement shall have the effect of postponing future increments.”

6.2 It is the case on behalf of the appellants that the word used in Regulation 40(1) is that an increment accrues from the day following that on which it is earned and in the present case the increment accrued on the day when they retired and therefore, on that day they were not in service and therefore, not entitled to the annual increment which they might have earned one day earlier. It is also the case on behalf of the appellants that as the increment is in the form of incentive and therefore, when the employees are not in service there is no question of granting them any annual increment which as such is in the form of incentive.

6.3 At this stage, it is required to be noted that there are divergent views of various High Courts on the issue involved. The Full Bench of the Andhra Pradesh High Court, the Himachal Pradesh High Court and the Kerala High Court have taken a contrary view and have taken the view canvassed on behalf of the appellants. On the other hand, the Madras High Court in the case of P. Ayyamperumal (*supra*); the Delhi High Court in the case of Gopal Singh Vs. Union of India and Ors. (Writ Petition (C) No.

10509/2019 decided on 23.01.2020); the Allahabad High Court in the case of Nand Vijay Singh and Ors. Vs. Union of India and Ors. (Writ A No. 13299/2020 decided on 29.06.2021); the Madhya Pradesh High Court in the case of Yogendra Singh Bhadauria and Ors. Vs. State of Madhya Pradesh; the Orissa High Court in the case of AFR Arun Kumar Biswal Vs. State of Odisha and Anr. (Writ Petition No.17715/2020 decided on 30.07.2021); and the Gujarat High Court in the case of State of Gujarat Vs. Takhtsinh Udesinh Songara (Letters Patent Appeal No. 868/2021) have taken a divergent view than the view taken by the Full Bench of the Andhra Pradesh High Court and have taken the view that once an employee has earned the increment on completing one year service he cannot be denied the benefit of such annual increment on his attaining the age of superannuation and/or the day of retirement on the very next day.

6.4 Now so far as the submission on behalf of the appellants that the annual increment is in the form of incentive and to encourage an employee to perform well and therefore, once he is not in service, there is no question of grant of annual increment is concerned, the aforesaid has no substance. In a given case, it may happen that the employee earns the increment three days before his date of superannuation and therefore, even

according to the Regulation 40(1) increment is accrued on the next in that case also such an employee would not have one year service thereafter. It is to be

noted that increment is earned on one year past service rendered in a time scale. Therefore, the aforesaid submission is not to be accepted.

6.5 Now, so far as the submission on behalf of the appellants that as the increment has accrued on the next day on which it is earned and therefore, even in a case where an employee has earned the increment one day prior to his retirement but he is not in service the day on which the increment is accrued is concerned, while considering the aforesaid issue, the object and purpose of grant of annual increment is required to be considered. A government servant is granted the annual increment on the basis of his good conduct while rendering one year service. Increments are given annually to officers with good conduct unless such increments are withheld as a measure of punishment or linked with efficiency. Therefore, the increment is earned for rendering service with good conduct in a year/specified period. **Therefore, the moment a government servant has rendered service for a specified period with good conduct, in a time scale, he is entitled to the annual increment and it can be said that he has earned the annual increment for rendering the specified period of service with good conduct.** Therefore, as such, he is entitled to the benefit of the annual increment on the eventuality of having served for a specified period (one year) with good conduct efficiently. Merely because, the government servant has retired on the very next day, how can he be denied the annual increment which he has earned and/or is entitled to for rendering the service with good conduct and efficiently in the preceding one year. In the case of **Gopal Singh (supra)** in paragraphs 20, 23 and 24, the Delhi High Court has observed and held as under: -

(para 20)

“Payment of salary and increment to a central government servant is regulated by the provisions of F.R., CSR and Central Civil Services (Pension) Rules. Pay defined in F.R. 9(21) means the amount drawn monthly by a central government servant and includes the increment. A plain composite reading of applicable provisions leaves no

*ambiguity that annual increment to a government servant to enable him to discharge duties of the post and that pay and allowances are also attached to the post. Article 43 of the CSR defines progressive appointment to mean an appointment wherein the pay is progressive, subject to good behaviour of an officer. It connotes that pay rises, by periodical increments from a minimum to a maximum. The increment in case of progressive appointment is specified in Article 151 of the CSR to mean that increment accrues from the date following that on which it is earned. The scheme, taken cumulatively, clearly suggests that appointment of a central government servant is a progressive appointment and periodical increment in pay from a minimum to maximum is part of the pay structure. Article 151 of CSR contemplates that increment accrues from the day following which it is earned. **This increment is not a matter of course but is dependent upon good conduct of the central government servant. It is, therefore, apparent that central government employee earns increment on the basis of his good conduct for specified period i.e. a year in case of annual increment.** Increment in pay is thus an integral part of progressive appointment and accrues from the day following which it is earned."*

(para 23)

"Annual increment though is attached to the post & becomes payable on a day following which it is earned but the day on which increment accrues or becomes payable is not conclusive or determinative. In the statutory scheme governing progressive appointment increment becomes due for the services rendered over a year by the government servant subject to his good behaviour. The pay of a central government servant rises, by periodical increments, from a minimum to the maximum in the prescribed scale. The entitlement to receive increment therefore crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day."

(para 24)

"In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. The central government servant 30th June has already completed a year of service and the increment has been earned provided his conduct was good. It would thus be wholly arbitrary if the increment earned by the central government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable." "In the case of a government servant retiring on 30th of June

the next day on which increment falls due/becomes payable loses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that it offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates right in the central government servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remain protected and are not denied due to a fortuitous circumstance."

6.6 The Allahabad High Court in the case of **Nand Vijay Singh (supra)** while dealing with the same issue has observed and held in paragraph 24 as under: -

"24. Law is settled that where entitlement to receive a benefit crystallises in law its denial would be arbitrary unless it is for a valid reason. The only reason for denying benefit of increment, culled out from the scheme is that the central government servant is not holding the post on the day when the increment becomes payable. This cannot be a valid ground for denying increment since the day following the date on which increment is earned only serves the purpose of ensuring completion of a year's service with good conduct and no other purpose can be culled out for it. The concept of day following which the increment is earned has otherwise no purpose to achieve. In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. The central government servant retiring on 30th June has already completed a year of service and the increment has been earned provided his conduct was good. It would thus be wholly arbitrary if the increment earned by the central government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable. In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable loses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that it offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates right in the central government servant to receive increment. This would ensure

that scheme of progressive appointment remains intact and the rights earned by a government servant remains protected and are not denied due to a fortuitous circumstance."

6.7 Similar view has also been expressed by different High Courts, namely, the Gujarat High Court, the Madhya Pradesh High Court, the Orissa High Court and the Madras High Court. As observed hereinabove, to interpret Regulation 40(1) of the Regulations in the manner in which the appellants have understood and/or interpreted would lead to arbitrariness and denying a government servant the benefit of annual increment which he has already earned while rendering specified period of service with good conduct and efficiently in the last preceding year. It would be punishing a person for no fault of him. **As observed hereinabove, the increment can be withheld only by way of punishment or he has not performed the duty efficiently. Any interpretation which would lead to arbitrariness and/or unreasonableness should be avoided.** If the interpretation as suggested on behalf of the appellants and the view taken by the Full Bench of the Andhra Pradesh High Court is accepted, in that case it would tantamount to denying a government servant the annual increment which he has earned for the services he has rendered over a year subject to his good behaviour. The entitlement to receive increment therefore crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day. In the present case the word "accrue" should be understood liberally and would mean payable on the succeeding day. Any contrary view would lead to arbitrariness and unreasonableness and denying a government servant legitimate one annual increment though he is entitled to for rendering the services over a year with good behaviour and efficiently and therefore, such a narrow interpretation should be avoided. We are in complete agreement with the view taken by the Madras High Court in the case of **P. Ayyamperumal (supra)**; the Delhi High Court in the case of **Gopal Singh (supra)**; the Allahabad High Court in the case of **Nand Vijay Singh (supra)**; the Madhya Pradesh High Court in the case of **Yogendra Singh Bhadauria (supra)**; the Orissa High Court in the case of **AFR Arun Kumar Biswal (supra)**; and the Gujarat High Court in the case of **Takhatsinh Udesinh Songara (supra)**. We do not approve the contrary view taken by the Full Bench of the Andhra Pradesh High Court in the case of **Principal Accountant-General, Andhra Pradesh (supra)** and the decisions of the Kerala High Court in the case of **Union of India Vs. Pavithran (O.P.(CAT) No. 111/2020 decided on 22.11.2022)** and the Himachal Pradesh High Court in the case of **Hari Prakash Vs. State of Himachal Pradesh & Ors. (CWP No. 2503/2016 decided on 06.11.2020)**.

7. *In view of the above and for the reasons stated above, the Division Bench of the High Court has rightly directed the appellants to grant one annual increment which the original writ petitioners earned on the last day of their service for rendering their services preceding one year from the date of retirement with good behaviour and efficiently. We are in complete agreement with the view taken by the Division Bench of the High Court. Under the circumstances, the present appeal deserves to be dismissed and is accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs."*

17. Furthermore, it is essential to observe that the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training has issued a Letter No.19/116/2024-Pers.Pol.(Pay)(Pt) dated 20th May, 2025 in consonance with the final directions of the Hon'ble Supreme Court in *Union of India & Anr Vs M.Siddaraj (supra)* dated 20.02.2025.

18. The right to the grant of notional increment on the completion of one year of service is thus not to be abridged by the applicant having sought voluntary retirement and the contention sought to be raised by the respondents through Para 2 of the letter dated 23.06.2025 reproduced hereinabove to contend that those who sought voluntary retirement from service/discharged from

service due to medical ground/reasons are not entitled for the grant of one notional increment, cannot be accepted.

19. In the instant case, in as much as the letter dated 19.05.2025 has been impugned in the present litigation only qua the aspect of the applicant having sought discharge from service on his own request on compassionate grounds though the contents in para 2 of Letter No. B/37933(Court Case/NIIAC/PS-6(B)/2025 dated 23.06.2025 are also in relation to the other aspects dealt with thereby *inter alia* to discharge from service due to medical reasons or discharged from service on disciplinary grounds, it is thus held in the instant case, that the applicant who has completed one year of service from 01.07.2009 to 30.06.2010 cannot be deprived of the benefits of the grant of one notional increment merely on the ground that the applicant had taken premature retirement from the services of the Indian Army on his own request.

20. It is essential to observe that by opting for voluntary retirement from service, the grant of which was accepted by the respondents, cannot amount to any lack of good conduct or unsatisfactory work. The Armed Forces Tribunal is empowered to

assess the administrative orders and policy letters issued by the Ministry of Defence, Govt of India on the anvil of the threshold of equality and fairness in accordance with Article 14 of the Constitution of India.

21. *It is apparent that the classification made by the respondents for non-grant of the benefit of notional increment only on the grounds of the individual opting for voluntary retirement is wholly arbitrary and discriminatory to thereby deny the grant of the benefit of notional increment due to those entitled to the same as per the said law laid down by the Hon'ble Supreme Court and thus is liable to be struck down on the ground of unconstitutionality and thus the clause 2 and 3(b) of the said letter dated 23.06.2025 whereby the respondents have stated that those persons who had opted/proceeded on voluntary retirement from service are not eligible for the grant of said benefit of Notional Increment is struck down as the same is arbitrary and discriminatory and unconstitutional.* Significantly, though the respondents in para 1 of the letter dated 23.06.2025 have made reference to the verdict of the Hon'ble Supreme Court dated 20

Feb. 2025 on the subject related to notional increment in the case of *Union of India & Anr Vs M. Siddaraj* in Misc Application Diary No.2400 of 2024 in Civil Appeal No. 3933 of 2023 and connected matters and DoP&T letter No.19/116/2024-Pers.Pol(Pay(Pt) dated 20.05.2025, a perusal of the order of the Hon'ble Supreme Court dated 20.02.2025 makes it apparent that there is not a whisper of an averment therein qualifying the opting for voluntary retirement from service amounting to non-satisfactory work or that the same in any manner amounts to any mis-conduct for calculating the benefits admissible to them. The said letter dated 20.05.2025 reads to the effect:

OFFICE MEMORANDUM

Subject: Grant of notional increment on Ist July/Ist January to the employees who retired from Central Govt service on 30th June/31 December respectively for the purpose of calculating their pensionary benefits-regarding.

The undersigned is directed to invite reference to the instructions issued vide this Department's OM of even number dated 14.10.2024(copy enclosed) regarding grant of 'notional increment' on Ist July/.Ist January to the Central Government

employees who have retired/are retiring from service a day before it became due i.e. on 30th June/31st December and have rendered the requisite qualifying service as on the date of their superannuation with satisfactory work and good conduct for calculating the pension admissible to them. The said instructions were issued in compliance of the Interim Order dated 06.09.2024 passed by the Hon'ble Supreme Court while hearing MA No.2400/2024 filed by M/s Railways alongwith several Intervention Applications tagged therewith. It was indicated therein that the action shall be subject to the final outcome of the petition(Dy No.36418/2024) filed by this Department seeking review of the Order dated 11.04.2023 of the Hon'ble Supreme Court in CA No.2471/2023 on the subject matter.

2. Hon'ble Supreme Court, vide Order dated 17.12.2024, had dismissed the Review Petition(Dy NBo.36418/2024) filed by this Department with the observation that there is no error on the fact of the record, warranting reconsideration of the order impugned.

3. Hon'ble Supreme Court has subsequently disposed of MA Nio.2400/2024 filed by M/o Railways and other petitions vide Order dated 20.02.2025 while issuing the following directions in the matter:

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 30.04.2023 (erroneously mentioned as 31.04.2023 in the order) 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 retired employee filed an application for intervention/impleadment/writ petition/original application before the Central Administrative Tribunal/High Courts/Supreme 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.

4. The Hon'ble Supreme Court has decided that the direction referred at Para 3(d) above will not apply to the retired government employees who filed a writ petition/original application or an application for intervention before the Central Administrative Tribunal/High Courts/Supreme Court after the judgment in "**Union of India & Anr Vs M Siddaraj**", as in such cases directions referred in Para 3(a) will apply.

5. In addition, Hon'ble Supreme Court has clarified that in case any excess payment already been made, including arrears, such amount will not be recovered. Court has decided that pending applications including all intervention/impleadment applications shall stand disposed of in terms of this order.

6. The matter has been examined in consultation with D/o Expenditure and D/o Legal Affairs. It is advised that in pursuance of the above referred Order dated 20.02.2025 of the Hon'ble Supreme Court, action may be taken to allow the increment on 1st July/1st January to the Central Government employees who retired/are retiring a day before it became due i.e. on 30th June/31st December and have rendered the requisite qualifying service as on the date of their superannuation with satisfactory work and good conduct for calculating the pension admissible to them. As specifically mentioned in the orders of the Hon'ble Supreme Court, grant of the notional increment on 1st January/1st July shall be

reckoned only for the purpose of calculating the pension admissible and not for the purpose of calculation of other pensionary benefits.

7. *This issues with the concurrence of D/o Expenditure vide their Dy NHo.08-09/2019-E.III(Vol/III)(4265134) dated 29.04.2025 ad D/o Legal Affairs vide Computer Dy No.E-144903 dated 17.03.2025.*

8. *Hindi version will follow."*

22. 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 directions issued by the Hon'ble Supreme Court on 20.02.2025 in MA Diary No.2400/2024 in Civil Appeal No.3933/2023. A Government servant cannot be denied the benefit of notional increment which he has already earned while rendering specified period of service with good conduct and efficiency in the last preceding year for that would lead punishing a person for no fault of him. As observed by the Hon'ble Supreme Court in Para 6.7 of the said judgment titled *The Director (Admn. And HR) KPTCL & Ors Vs C .P. Mundinamani & Ors (supra)* an increment can be withheld only by way of punishment or if the Govt servant has not performed the duty efficiently. Any interpretation which would lead to arbitrariness and/or unreasonableness should be avoided.

23. Merely, because the government servant has taken premature retirement on his own on compassionate grounds and the same had been allowed and permitted by the respondents, the same does not amount to any misconduct and in the absence of such misconduct the same cannot be termed any mis-behaviour. The contents of the administrative letter No. B/37933/Court Case/NI/AC/PS 6(B)/2025 dated 23 Jun 2025 wherein vide para 2, it is stated that as per the above ref DoP&T OM the benefits of notional increment are applicable to the Central Government employees who have rendered the requisite qualifying service as on date of their superannuation with satisfactory work and good conduct to the extent that it states

“Accordingly, all those persons who had opted for voluntary retirement from services/discharged from service are not eligible for the said benefit of the Notional Increment”

is wholly arbitrary and unreasonable in relation to the aspect of the applicant having been denied the benefit of notional increment despite the verdict of the Hon’ble Supreme Court in the case of

Director (Admn. And HR) KPTCL and Others Vs. C.P. Mundinamani and Others (supra) that the person who has completed one year of service with good behaviour and conduct is entitled to the grant of notional increment and in the spirit thereof the applicant having taken voluntary retirement on compassionate grounds which has been accepted and permitted by the respondents, the denial of the notional increment to the applicant is arbitrary, unreasonable and un-constitutional and is violation of Article 14 of the Constitution of India.

24. Accordingly, the OA is disposed of with a direction to the Competent Authority to adhere to the order of the Hon'ble Supreme Court on 20.02.2025 in MA Diary No.2400/2024 in Civil Appeal No.3933/2023, as detailed hereinabove taking into account the findings hereinabove that the words in the administrative letter dated 23.06.2025

“Accordingly, all those pers who had opted for voluntary retirement from service/discharged from service due to medical reasons/issues etc are not eligible for said benefit of the Notional Increment”

are struck down hereby being unconstitutional with no rational nexus to the purpose of the grant of notional increment itself.

25. In the light of the above considerations, the OA 3303/2025 is allowed to the extent that the respondents are directed to:

(a) calculate, sanction and issue the corrigendum PPO to the applicant with the grant of the notional increment due to him for the period 01.07.2009 to 30.06.2010 with directions to the respondents to pay the arrears within a period of three months from the date of receipt of a copy of this order, *failing which*, the respondents would be liable to pay interest @8% p.a. on the arrears due from the date of this order.

26. No order as to costs.

27. The Joint Registrar (Judicial) of the Armed Forces Tribunal(Principal Bench) New Delhi is directed to send a copy of this order to the Defence Secretary, Govt of India, to the Secretary, DMA and to the Chief of the Army Staff, to the Chief of the Air Force Staff and to the Chief of the Naval Staff to ensure compliance of the directions hereinabove specifically of paras 23 and 24 hereinabove in all such similar cases.

28. A copy of this order, subject to the directions of Hon'ble the Chairperson be circulated to all Members of the Armed Forces

Tribunal (PB) and all Members of the Regional Benches of the
Armed Forces Tribunal.

Pronounced in the open Court on this 2nd day of March,
2026.

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

(JUSTICE ANU MALHOTRA)
MEMBER (J)

/CHANANA/