

.1.

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**ORIGINAL APPLICATION NO. 180/00936 of 2019**

**Tuesday, this the 31<sup>st</sup> day of December, 2019**

**CORAM**

**Hon'ble Mr. E.K.Bharat Bhushan, Administrative Member**

**Hon'ble Mr.Ashish Kalia, Judicial Member**

Shri.K.K.Kesavan Namboodiri

S/o.Late Kesavan Namboodiri, aged 65 years

Superintendent of Central Excise (Retd.)

“Rachana”, Kottillil Lane, Kanattukara P.O

Thrissur Dist – 680 011 (Mob:9447278700)

... Applicant

(By Advocate Mr.C.S.G.Nair)

Versus

1. The Union of India,  
represented by its Secretary,  
Department of Personnel & Training,  
North Block, New Delhi – 110 001.
  2. The Chief Commissioner of Central Taxes and Customs,  
Central Revenue Building, I.S.Press Road,  
Cochin – 682 018.
  3. The Commissioner of Central Taxes and Customs,  
Central Revenue Building, Mananchira  
Kozhikode – 673 001.
  4. Assistant Commissioner of Central Taxes & Customs  
Central Revenue Buildings, Shakthan Thamburan Nagar  
Thrissur – 680 001
  5. Pay and Accounts Officer, Central Excise & Customs  
Central Revenue Building, Mananchira  
Kozhikode – 673 001
- ..... Respondents

(By Advocate, Mrs.P.K.Latha, ACGSC for Respondents)

.2.

This application having been heard on 31<sup>st</sup> December, 2019, the Tribunal on the same day delivered the following :

**ORDER (ORAL)**

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER**

The applicant had retired as Superintendent of Central Excise on 30.06.2014 on superannuation. As per Rule 10 of CCS(RP) Rules, 2008, the date of annual increment is uniformly fixed at 1<sup>st</sup> July of every year and employees who complete 6 months in the revised pay structure as on 1<sup>st</sup> July will become eligible for one increment. The applicant, owing to the fact that he retired on 30.6.2014 and was not in service on 1<sup>st</sup> July of the same year, was denied the benefit of the one increment despite the fact that he had completed a full year's service as on 30.6.2014 since he drew the last increment. The applicant prays for the following reliefs:

“(i) To declare that the applicant is entitled for one notional increment on 01.07.2014 for the period from 01.07.2013 to 30.06.2014, for the purpose of pensionary benefits.

(ii) To direct the respondents to grant one notional increment to the applicant on 01.07.2014 and revise his pensionary benefits like pension, gratuity, commutation value etc., including arrears of leave salary within a time frame.

(iii) Grant such other relief or reliefs that may be prayed for or that are found to be just and proper in the nature and circumstances of the case.

(iv) Grant cost of this O.A.”

2. A similar issue raised through an Original application before the CAT,

.3.

Madras Bench was rejected, but the same was favourably considered by the Hon'ble High Court of Madras in W.P. NO.15732 of 2017 (Annexure A2).

The Hon'ble High Court held that

“7. .... 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 the increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purposes”.

The Special Leave Petition No.22283 of 2018 filed against the judgment of the Hon'ble High court was also dismissed by the Hon'ble Supreme Court.

3. In view of the above quoted judgment of the Hon'ble High Court of Madras which has attained finality, the applicant 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. The OA is allowed. The respondents are directed to grant one notional increment to the applicant for the purpose of calculating the pension and pensionary benefits and not for any other purpose as held by the Hon'ble Madras High Court in **UOI & ors. Vs. Shri P.Ayyamperumal** in Writ Petition No.15732 of 2017, which was upheld by the Hon'ble Apex Court. The respondents shall implement this order within a period of 90 days from the date of receipt of a copy of this order. There shall be no order as to costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

**(E.K.BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

**SV**

**List of Annexures**

1. Annexure A1 - True copy of the PPO No.547501400066.
  2. Annexure A2 - True copy of the judgment dt. 15.09.2017 in WP No.15732/2017.
  3. Annexure A3 - True copy of the order in SLP Dairy No.22283/2018.
  4. Annexure A4 - True copy of the representation dated 14.2.2019.
  5. Annexure A5 - True copy of the Hon'ble Minister for Personnel, Public Grievances, and Pensions has stated in the Lok Sabha on 12.12.2018 in answer to Un-Starred question No.427.
  6. Annexure A6- True copy of the order in O.A No.1055/2018 and connected cases dated 3.12.2019.
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