

INDIAN RAILWAYS TECHNICAL SUPERVISORS' ASSOCIATION

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No:IRTSA/Memo-10

Date:13.01.2024

The Secretary,
Department of Personnel & Training,
Ministry of Personnel, PG and Pensions.
Government of India,
North Block, New Delhi - 110 001

Respected Sir,

Sub: Grant of notional annual increment (as due on 1st July/1st January) for the pensionary benefits to those employees who have retired/retiring on 30th of June/31st December before drawing the same.

Ref: 1) Hon'ble Supreme Court Judgement dt 11.04.2023 in Civil Appeal No. 2471 of 2023.
2) DoPT O.M.No. F. No. 1453545/2021-Estt (Pay-I), dated 24.06.2021.
3) Railway Board O.M.No. PC-VI/2020/Misc./01, dated: 21.04.2023
4) Railway Board letter No. PC-VI/2020/CC/13, dated: 20.06.2023.

- 1) We bring the issue of grant of notional annual increment (as due on 1st July/1st January) for the pensionary benefits to those employees who had retired (retiring) on 30th of June/31st December before drawing the same. This issue is lingering on for some time despite many court judgements including Supreme Court in favour.
- 2) The Division Bench of the High Court of Karnataka at Bengaluru has directed the appellants KARNATAKA POWER TRANSMISSION CORPORATION LIMITED-KPTCL 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.
- 3) The Hon'ble Supreme is in complete agreement with the Division Bench of the Karnataka High Court which has rightly directed to grant one annual increment to the original writ petitioners (retired employees) 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.
- 4) The Hon'ble Supreme Court has interpreted the law involved and decided the issue of notional increment on merit through a detailed reasoned judgement in Civil Appeal No. 2471 of 2023 dated 11.04.2023 taking into consideration all relevant judgements pronounced in various courts of law on the issue of notional increment which have been decided in favour & also against.
- 5) The Hon'ble Supreme Court in its judgement given the following points
 - a) It would lead to arbitrariness 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.

- b) 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.
 - c) 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.
 - d) 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.
 - e) The Supreme Court was in complete agreement with the view taken by the Madras High Court in the case of P.Ayyamperumal and the decisions of following High Courts
 - i. 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).
 - ii. 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).
 - iii. The Madhya Pradesh High Court in the case of Yogendra Singh Bhadauria and Ors. Vs. State of Madhya Pradesh.
 - iv. 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
 - v. the Gujarat High Court in the case of State of Gujarat Vs. Takhatsinh Udesinh Songara (Letters Patent Appeal No. 868/2021).
- 6) It is clear that, The Hon'ble Supreme court is in complete agreement with the Division Bench of the Karnataka High Court which has rightly directed to grant one annual increment to 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.
- 7) All the intervention applications in same issue have been allowed by Hon'ble Supreme Court and all the intervenors are entitled to get the same relief.
- 8) The judgements of various High Courts & Supreme Court, as cited above, are based on legal grounds quoted therein & have universal application & as such the same should be applied to all similarly placed retired/ retiring employees irrespective of the fact whether they were original applicants or intervenors or whether they had gone to court/s or not.

Keeping in view the Fundamental constitutional rights as stipulated in Article 14,16 & 39 of Constitution of India.

- 9) It is therefore requested that, necessary orders may please be issued by DoPT for grant of notional annual increment (as due on 1st July/1st January) for the pensionary benefits to those employees who have retired/retiring on 30th of June/31st December before drawing the same.

Thank you in anticipation



K.V.RAMESH
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Copy to

- 1) Secretary, Administrative Reforms, Public Grievances, Pensions & Pensioners Welfare, 5th Floor, Sardar Patel Bhawan, Parliament Street, New Delhi - 110001.
- 2) Secretary Railway Board, 227-Rail Bhavan, Raisina Road, New Delhi - 110001