

छत्तीसगढ़ शासन
वित्त विभाग
मंत्रालय, महानदी भवन, नवा रायपुर अटल नगर
जिला रायपुर

क्रमांक / 356 / 2020 / वित्त / नियम,
प्रति,

नवा रायपुर, दिनांक 15.07.2020

शासन के समस्त विभाग
अध्यक्ष, राजस्व मण्डल, बिलासपुर
समस्त संभागीय आयुक्त
समस्त विभागाध्यक्ष
समस्त कलेक्टर
छत्तीसगढ़

विषय:- शासकीय सेवकों की सेवानिवृत्ति पश्चात् आगामी तिथि पर वेतनवृद्धि की अपात्रता के संबंध में ।

माननीय मद्रास उच्च न्यायालय के द्वारा याचिका क्रमांक W.P.No. 15732/2017 में श्री पी. अय्यम्पेरुमल के प्रकरण में पारित आदेश दिनांक 15.09.2017 के प्रकाश में 30 जून को सेवानिवृत्त पेंशनरों द्वारा आगामी तिथि 1 जुलाई की वेतनवृद्धि प्रदाय कर पेंशन संबंधी दायित्वों की गणना किये जाने हेतु माननीय उच्च न्यायालय में बड़ी संख्या में याचिकायें दायर की जा रही हैं व विभिन्न कर्मचारी संगठनों एवं पेंशनरों द्वारा अभ्यावेदन प्रस्तुत किये जा रहे हैं । विभिन्न विभागों द्वारा भी माननीय उच्च न्यायालय में दायर ऐसे सभी प्रकरणों में पारित आदेशों के तारतम्य में वित्त विभाग से मार्गदर्शन/अभिमत चाहा गया है । ऐसे समस्त प्रकरणों में पृथक-पृथक अभिमत प्रदान करने में काफी समय लगता है व प्रकरणों के निराकरण में विलम्ब भी होता है । अतः इन सभी प्रकरणों के त्वरित निराकरण हेतु समस्त विभाग निम्नलिखित बिन्दुओं के आधार पर प्रकरणों का निराकरण किया जाना सुनिश्चित करें :-

2/ शासकीय कर्मचारियों को वार्षिक वेतनवृद्धि प्रदाय किये जाने हेतु छत्तीसगढ़ वेतन पुनरीक्षण नियम, 2009 एवं छत्तीसगढ़ वेतन पुनरीक्षण नियम, 2017 में निम्न प्रावधान है :-

(अ) छत्तीसगढ़ वेतन पुनरीक्षण नियम, 2009 (दिनांक 01.01.2006 से लागू) :-

नियम -10 पुनरीक्षित वेतन संरचना में आगामी वेतनवृद्धि की तारीख :-

वार्षिक वेतनवृद्धि की तारीख एक समान अर्थात्, प्रत्येक वर्ष की पहली जुलाई होगी ।

(ब) छत्तीसगढ़ वेतन पुनरीक्षण नियम, 2017 (दिनांक 01.01.2016 से लागू) :-

नियम -10 पुनरीक्षित वेतन संरचना में आगामी वेतनवृद्धि की तारीख :-

(1) 1 जुलाई की विद्यमान तारीख के स्थान पर वेतन वृद्धि की दो तारीखें होंगी अर्थात् प्रत्येक वर्ष की 1 जनवरी और 1 जुलाई

उपरोक्त दोनों वेतन पुनरीक्षण नियम, नियमों में अन्यथा उपबंधित के सिवाय नियम 2 में यथा निर्दिष्ट अनुसार राज्य शासन के शासकीय सेवकों को लागू हैं । जिन शासकीय सेवकों की वेतनवृद्धि की तिथि 1 जुलाई है व 30 जून को शासकीय सेवा से सेवानिवृत्त होते हैं, वे आगामी तिथि 1 जुलाई

को शासकीय सेवक नहीं रहेंगे । अतः 30 जून को सेवानिवृत्ति उपरांत आगामी तिथि 1 जुलाई की वेतनवृद्धि के लिए पात्र नहीं होंगे। इसी प्रकार जिन शासकीय सेवकों की वेतनवृद्धि की तिथि 1 जनवरी है व 31 दिसम्बर को शासकीय सेवा से सेवानिवृत्त होते हैं, आगामी तिथि 1 जनवरी को शासकीय सेवक नहीं रहेंगे । अतः 31 दिसम्बर को सेवानिवृत्ति उपरांत आगामी तिथि 1 जनवरी की वेतनवृद्धि हेतु अपात्र रहेंगे ।

3/ भारत सरकार, वित्त मंत्रालय के ज्ञापन क्रमांक F.No. A-23011/36/2013-Ad.IIA दिनांक 18.10.2019 में उल्लेख है कि श्री पी. अय्यम्पेरुमल के प्रकरण (WP No. 15732/2017) में मान. मद्रास उच्च न्यायालय द्वारा पारित निर्णय व्यक्तिगत रूप से लागू है, सामान्यतः नहीं, जैसा कि उन्हें भारत सरकार के कार्मिक एवं प्रशिक्षण विभाग द्वारा विधि कार्य विभाग की निम्नानुसार टीप के आधार पर सूचित किया गया:-

" It is very clear that the judgement of Hon'ble Court of Madras passed in the matter of Sh. P. Ayyamperumal is in personam and not in rem"

4/ श्री पी. अय्यम्पेरुमल भारत सरकार के शासकीय सेवक थे । भारत सरकार के उक्त आदेश द्वारा इनके प्रकरण में पारित निर्णय को व्यक्तिगत रूप से ही लागू किया गया तथा अन्य प्रकरणों में इसे उदाहरण स्वरूप प्रस्तुत न करने का भी लेख किया गया है। यह भी स्पष्ट किया गया है कि उक्त निर्णय में संदर्भित श्री एम. बालासुब्रमण्यम तमिलनाडु सरकार के शासकीय सेवक थे जिन पर तमिलनाडु शासन के नियम व निर्देश लागू होते हैं । छत्तीसगढ़ राज्य के शासकीय सेवकों पर छत्तीसगढ़ शासन के नियम व निर्देश लागू होते हैं, अतः छत्तीसगढ़ राज्य के शासकीय सेवकों को उक्त पारित निर्णय के आधार पर सेवानिवृत्ति पश्चात् वेतनवृद्धि की पात्रता निर्धारित नहीं की जा सकती ।

5/ माननीय उच्च न्यायालय छत्तीसगढ़ द्वारा पारित कतिपय आदेशों में उल्लेखित सामान्य प्रशासन विभाग के परिपत्र दिनांक 11.06.2019 के संबंध में यह स्पष्ट किया जाता है मद्रास उच्च न्यायालय द्वारा पारित आदेश के परिप्रेक्ष्य में सामान्य प्रशासन विभाग द्वारा कोई भी परिपत्र वेतनवृद्धि के संबंध में दिनांक 11.06.2019 को जारी नहीं किया गया है, अपितु उक्त तिथि को सामान्य प्रशासन विभाग द्वारा इस संबंध में कर्मचारी संघ से प्राप्त ज्ञापन को सामान्य ज्ञापन के माध्यम से आवश्यक कार्यवाही हेतु वित्त विभाग को अग्रेषित किया गया है ।

संलग्न :- (i) याचिका क्र. WP No. 15732/2017 में माननीय

मद्रास उच्च न्यायालय द्वारा पारित निर्णय

(ii) भारत सरकार, वित्त मंत्रालय का ज्ञापन दिनांक 18.10.2019

छत्तीसगढ़ के राज्यपाल के नाम से
तथा आदेशानुसार


(अमिताम जैन) 14/7/22
अपर मुख्य सचिव

पृ.क्र. /357/2020/वित्त/नियम,

नवा रायपुर, दिनांक 15.07.2020

प्रतिलिपि:-

1. राज्यपाल के सचिव, राजभवन, रायपुर
 2. सचिव, छत्तीसगढ़ विधानसभा सचिवालय, रायपुर
 3. सचिव, मुख्यमंत्री सचिवालय, नवा रायपुर, अटल नगर
 4. रजिस्ट्रार जनरल/महाधिवक्ता/उपमहाधिवक्ता, छत्तीसगढ़ उच्च न्यायालय, बिलासपुर
 5. सचिव, छत्तीसगढ़ लोक सेवा आयोग/मानवाधिकार आयोग/राज्य निर्वाचन आयोग/लोक आयोग, रायपुर
 6. निज सचिव/निज सहायक, मंत्री/राज्यमंत्री, छत्तीसगढ़, नवा रायपुर, अटल नगर
 7. महालेखाकार, छत्तीसगढ़, रायपुर
 8. मुख्य सचिव के उप सचिव, मंत्रालय, नवा रायपुर, अटल नगर
 9. अपर मुख्य सचिव/सचिव, वित्त के निज सहायक, मंत्रालय, नवा रायपुर, अटल नगर
 10. आयुक्त, जनसंपर्क संचालनालय, नवा रायपुर, अटल नगर
 11. आवासीय आयुक्त, छत्तीसगढ़ भवन, नई दिल्ली
 12. राज्य सूचना आयुक्त, सेक्टर-19, नवा रायपुर, अटल नगर
 13. छत्तीसगढ़ राज्य विधिक सेवा प्राधिकरण, विविध सेवा मार्ग, बिलासपुर
 14. समस्त अपर सचिव/विशेष सचिव/संयुक्त सचिव/उप सचिव/अवर सचिव /विशेष कर्तव्यस्थ अधिकारी/शोध अधिकारी एवं समस्त शाखा, वित्त विभाग, मंत्रालय, नवा रायपुर, अटल नगर
 15. संचालक, कोष, लेखा एवं पेंशन, छत्तीसगढ़, नवा रायपुर, अटल नगर
 16. मुख्य लेखाधिकारी, मंत्रालय, नवा रायपुर, अटल नगर
 17. समस्त संभागीय संयुक्त संचालक, कोष, लेखा एवं पेंशन, छत्तीसगढ़
 18. समस्त कोषालय अधिकारी, जिला/इन्द्रावती कोषालय, छत्तीसगढ़
 19. समस्त प्राचार्य, लेखा प्रशिक्षण शाला, रायपुर/बिलासपुर, छत्तीसगढ़
 20. संचालक, शासकीय लेखन सामग्री एवं मुद्रण, रायपुर
 21. समस्त मान्यता प्राप्त कर्मचारी संघ, छत्तीसगढ़
 22. प्रेस अधिकारी, प्रेस प्रकोष्ठ, मंत्रालय, नवा रायपुर, अटल नगर
- को सूचनार्थ/आवश्यक कार्यवाही हेतु
23. संचालक, वित्तीय प्रबंध एवं सूचना प्रणाली, नवा रायपुर को वित्त विभाग की वेबसाइट www.cgfinance.nic.in में अपलोड करने हेतु


(आनंद मिश्रा)
अवर सचिव

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2017

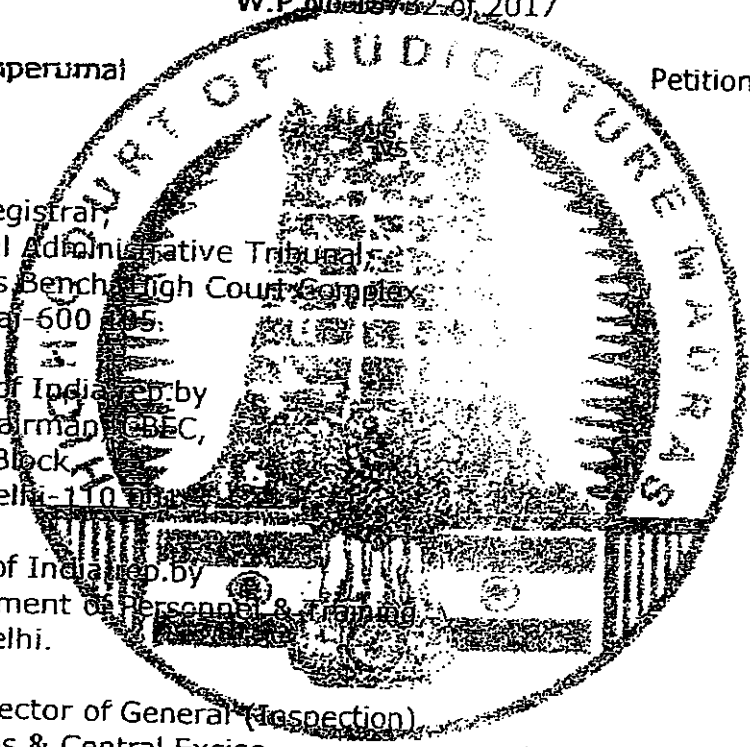
CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P No. 15732 of 2017

P.Ayyamperumal

Petitioner



- 1. The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Complex,
Chennai-600 035.
- 2. Union of India rep. by
the Chairman, CBEC,
North Block,
New Delhi-110 002.
- 3. Union of India rep. by
Department of Personnel & Training,
New Delhi.
- 4. The Director of General (Inspection)
Customs & Central Excise,
"D" Block, I.P. Bhawan, I.P. Estate,
New Delhi-110 002.

Respondents

Petitioner filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari/Mandamus calling for the records of the first respondent in O.A./310/00917/2015 dated 21.03.2017 and quash the same and consequently direct the fourth respondent to treat the retirement date of the petitioner as on 01.07.2013 and grant all the consequential benefits including the pensionary benefits.

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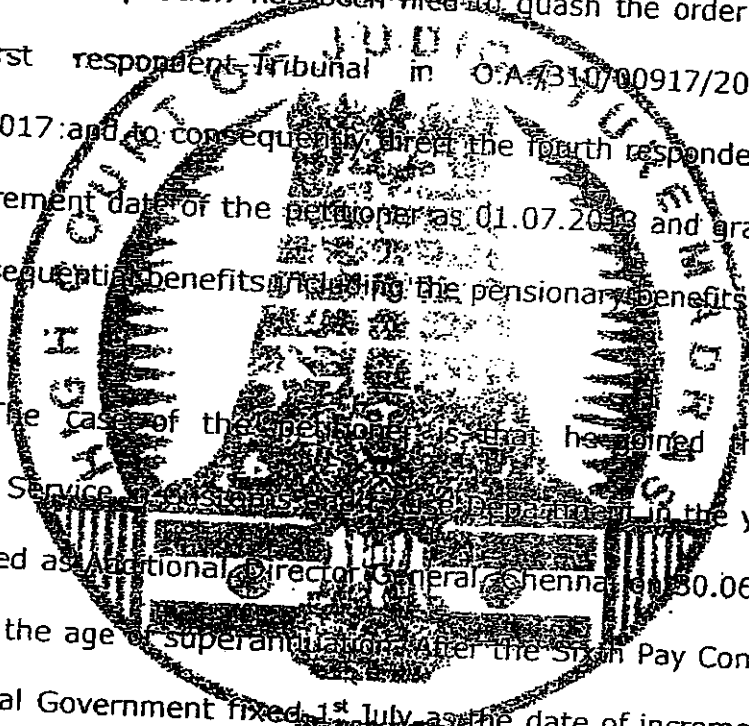
For Petitioner :: Mr.P.Ayyamperumal,
 Petitioner-in-Person

For Respondents :: Mr.K.Mohanamurali,
 Sr.Panel Counsel for R2 to R4

ORDER
 (Order of the Court was made by
HULUVADI G.RAMESH, J.)

This writ petition has been filed to quash the order passed by the first respondent Tribunal in O.A.No.310/00917/2015 dated 21.03.2017 and to consequently direct the fourth respondent to treat the retirement date of the petitioner as 01.07.2013 and grant him all the consequential benefits including the pensionary benefits.

2.The case of the petitioner is that he joined the Indian Revenue Service, Customs and Excise Department in the year 1982 and 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 by order dated 21.03.2017, the Tribunal rejected the claim of the petitioner by

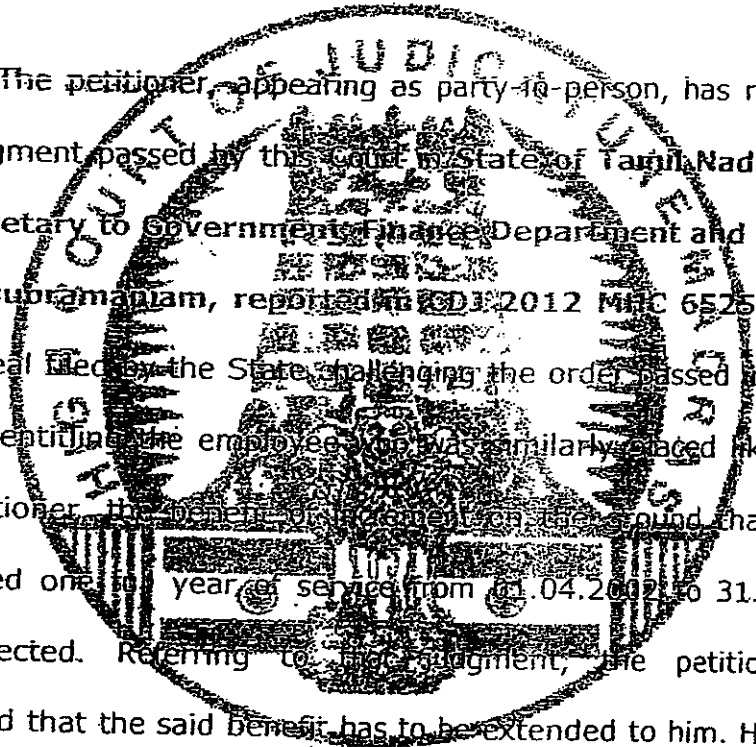


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(8) (25) (4)

taking a view that an incumbent is only entitled to increment on 1st July if he continued in service on that day. Since the petitioner was no longer in service on 1st July 2013, he was denied the relief. Challenging the order passed by the Tribunal, the present writ petition is filed.

3. The petitioner, appearing as party to person, has referred to the judgment passed by this Court in State of Tamil Nadu, rep. by its Secretary to Government Finance Department and others v. M. Balasubramaniam, reported in (2012) 103 L.J. 2012 MHC 6525, wherein the appeal filed by the State challenging the order passed in the writ petition entitling the employee who was similarly placed like that of the petitioner, the benefit of promotion on the ground that he has completed one year of service from 01.04.2002 to 31.03.2003; was rejected. Referring to that judgment, the petitioner has submitted that the said benefit has to be extended to him. He further submitted that even though the above decision squarely covers his case, no mention has been made by the Central Administrative Tribunal as to how that decision is not applicable to him. With regard to the said issue, the petitioner has also referred to the order passed by the Government of Tamil Nadu in G.O.Ms.No.311, Finance (CMPC) Department, dated 31.12.2014, and submitted that in the said G.O., it has been mentioned that the Pay Grievance Redressal Cell has



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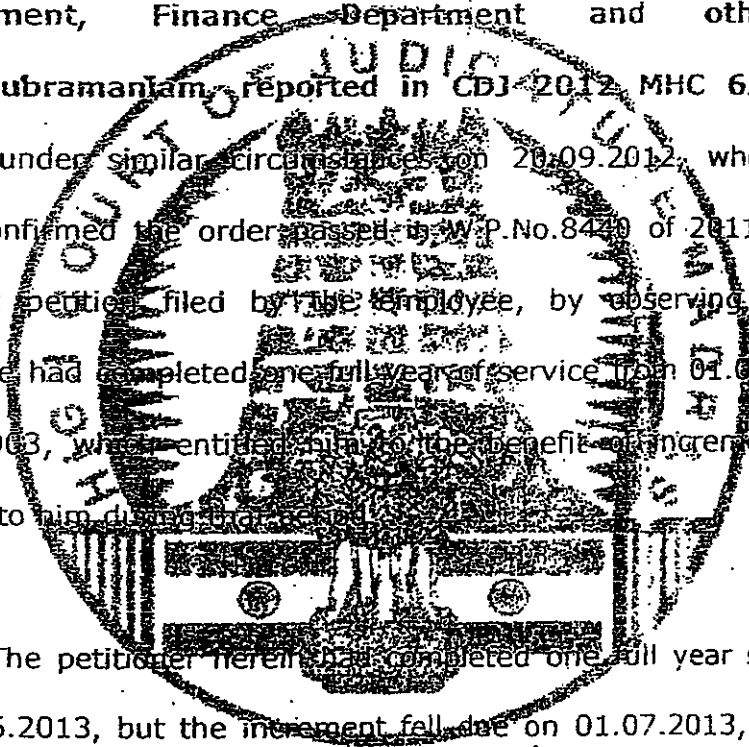
recommended that when the date of increment of a Government servant falls due on the day following superannuation on completion of one full year of service, such service may be considered for the benefit of notional increment purely for the purpose of pensionary benefits and not for any other purpose. Stating so, the petitioner prayed for allowing this writ petition.

4. Heard the learned Senior Panel Counsel appearing for the respondents 2 to 4 on the submissions made by the petitioner and perused the materials available on records.

5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission of 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.

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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 CBJ-2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed by 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

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(11) (28)

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.

Index : Yes/No
Internet : Yes/No

(H.G.R.,J.) (T.K.R.,J.)
15.09.2017

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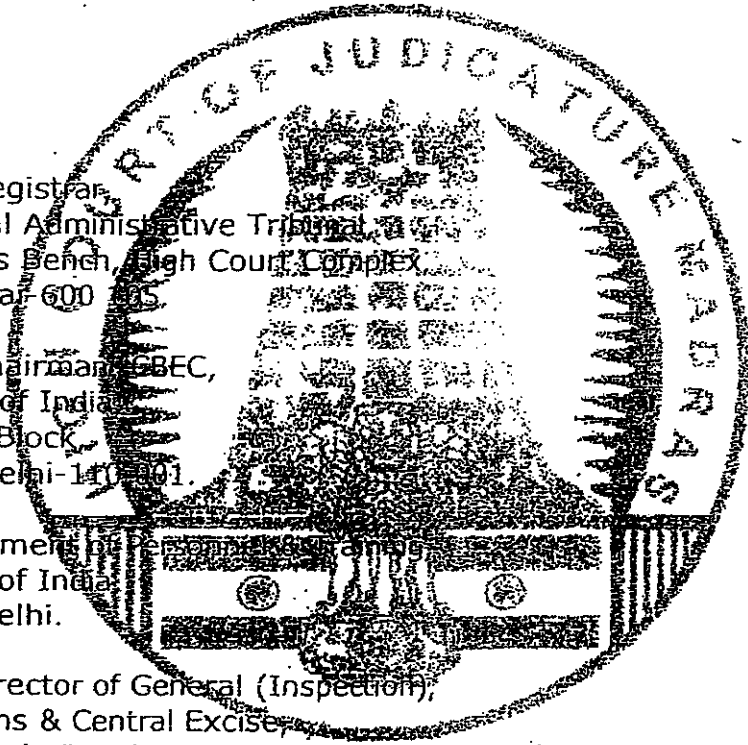
To

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Complex,
Chennai-600 015.

2. The Chairman, CBEC,
Union of India,
North Block,
New Delhi-110 001.

3. Department of Personnel,
Union of India,
New Delhi.

4. The Director of General (Inspection),
Customs & Central Excise,
"D" Block, I.P. Bhawan, I.P. Estate,
New Delhi-110 002.

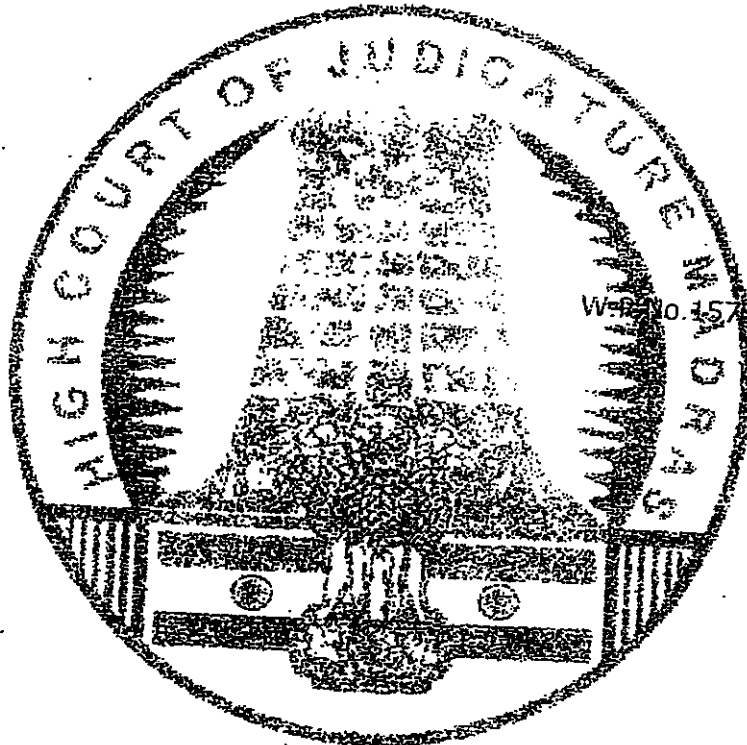


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HULUVADI G.RAMESH, J.
AND
RMT.TEEKAA RAMAN, J.

KM



W.P.No.15732 of 2017

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15.09.2017

F. No. A-23011/36/2013-Ad.IIA
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs

North Block, New Delhi,
Dated the 15 October, 2019.

To,

All Pr. Chief Commissioners/ Chief
Commissioners/Director General under CBIC,

Subject: Grant of notional increment/re-fixation of pensionary benefits as per Hon'ble Madras High Court Order in WP No. 15732/2017 in the case of Sh. P. Ayyamperumal -regarding.

Sir/Madam,

1. I am directed to inform that the Order dated 15.09.2017 of the Hon'ble High passed in the matter of P. Ayyamperumal's case (WP No. 15732/2017) is ***in personam and not in rem***. Therefore, the CBIC has implemented the High Court's order in personam after dismissal of review petition filed in the Supreme Court. for petitioner only which would not be quoted as precedent in future.

2. A number of cases on the similar grounds are pending at various fora and similar demands from other similarly placed officers could also arise after Hon'ble Supreme Court's Order dated 08.08.2019 in R.P.(C) No. 1731/2019. Keeping this in mind, a request was made to DoPT seeking their opinion about the future course of action to be taken in case pertaining to similarly placed applicants and non-applicants.

3. DoPT has now informed that Deptt. of Legal Affairs have observed that:

"It is very clear that the judgment of Hon'ble High Court of Madras passed in the matter of Sh. P. Ayyamperumal is in personam and not in rem."

4. Based on the above, DoPT has informed that in so far as other similar cases are concerned, the same may be defended on following grounds:-

4.1 In so far as P. Ayyamperumal case is concerned, it is stated that the judgment of Hon'ble High Court of Madras is in personam.

4.2 Further, the case of **Sh. M Balasubramaniam** referred by Hon'ble High Court in it's judgment in P. Ayyamperumal case is related to Fundamental Rules of Tamilnadu Government whereas P. Ayyamperumal case relates to Central Government Rules.

4.3. It is relevant to mention here that in a similar matter, Hon'ble High Court of Andhra Pradesh at Hyderabad in year 2005, in C. Subbarao case, has inter-alia observed as under:

In support of the above observations, the Division Bench also placed reliance on Banerjee case (supra). We are afraid, the Division Bench was not correct in coming to the conclusion that being a reward for unblemished past service, Government servant retiring on the last day of the month would also be entitled for increment even after such increment is due after retirement. We have already made reference to all Rules governing the situation. There is no warrant to come to such conclusion. Increment is given (See Article 43 of CS Regulations) as a periodical rise to a Government employee for the good behaviour in the service. Such increment is possible only when the appointment is "Progressive Appointment" and it is not a universal rule. Further, as per Rule 14 of the Pension Rules, a person is entitled for pay, increment and other allowances only when he is entitled to receive pay from out of Consolidated Fund of India and continues to be in Government service. A person who retires on the last working day would not be entitled for any increment falling due on the next day and payable next day thereafter (See Article 151 of CS Regulations), because he would not answer the tests in these Rules. Reliance placed on Banerjee case (supra) is also in our considered opinion not correct because, as observed by us, Banerjee case (supra) does not deal with increment, but deals with enhancement of DA by the Central Government to pensioners. Therefore, we are not able to accept the view taken by the Division Bench. We accordingly overrule the judgment in Malakondaiah case (supra).

4.4 In addition, subsequent to the judgment of Hon'ble High Court of Madras in P. Ayyamperumal's case, Hon'ble CAT Madras Bench vide its orders dated 19.03.2019 in O.A. No. 310/00309/2019 and O.A. No. 310/00312/2019 and Order dated 27.03.2019 in O.A. No. 310/00026/2019 has also dismissed the similar requests related with notional increment for pensionary benefits.

5. Accordingly, it is requested that all the pending/future court cases on the similar issue should be defended/dealt with adequately on the above lines.

Yours faithfully,

A. K. Mishra

(A.K. Mishra)

Under Secretary to the Government of India