

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

O.A. No. 310/00293 of 2021

DATED THE 13th DAY OF FEBRUARY TWO THOUSAND TWENTY FOUR

PRESENT:

THE HON'BLE SHRI MANISH GARG, MEMBER(J)
THE HON'BLE SHRI VARUN SINDHU KUL KAUMUDI, MEMBER (A)

1. S. Venugopal, Age 70 years [HRMS No.197102799]
S/o (Late) Sri.V.J.Srinivasan,
SSS(O) [Retired], O/o DGM, CTO Chennai-1
Residing at: No.12, Diamond Avenue 2nd Street,
Teachers Colony, Kodungaiyur,
CHENNAI 600 118.
2. K. Ponnusamy, Age 63 years, [HRMS No.198308144]
S/o (Late) Sri.R.Krishnasamy,
JE [Retired], TE, Radhanagar, Chromepet,
Residing at: No.9, Ragavendra Salai,
Chitlapakkam, CHENNAI 600 064.
3. S. D. Santharaj Leo, Age 76 years, [HRMS No.R80270366]
S/o (Late) Sri.Devaraj Pillai,
TM [Retired], O/o Chief Suptd. CTO Chennai-1,
Residing at: Old No.234, New No.350, Arcot Road,
Vadapalani, CHENNAI 600 026.
4. T. Jayaseelan, Age 75 years, [HRMS No.R80270268]
S/o (Late) Sri.Thangavelu, SSS [Retired],
O/o Chief Suptd. CTO Chennai-1
Residing at: No.90/42, Bhajanai Koil First Street,
Vadapalani, CHENNAI 600 026;
5. M. Dayalan, Age 63 years, [HRMS No.198702802]
S/o (Late) Sri.T.K.Murugesan,
AOS (TG) [Retired], O/o CGM, Chennai-10,
Residing at: No.15/35,Nammalwar Street,
Choolai, CHENNAI 600 112.
6. T. Ramsubramanian, Age 70 years,
[HRMS No.197102788] S/o (Late) Sri.P.Thulukkanam,
CSS [Retired], CSS Kaladipet TE Chennai-19,
Residing at: No.31,Chinnasamy Nagar,
Periya Mathur, CHENNAI 600 068;
7. Rukmani Chelliah,, Age 65 years [HRMS No.197405855],
D/o (Late) Sri,C.K.Ramaiah,
CSS [Retired], Tele. Exge Nanganallur, RSU/CSO, CNI-61,
Residing at: No.6/4, West Karikalan Street,



Murugan Nagar, Adambakkam, CHENNAI 600 088;

8. R. Narasimhan, Age 79 years,
S/o (Late) Sri.R.Ramabadran,
CTM [Retired], O/o Chief Suptd. CTO Chennai-1,
Residing at: No.32/28, Third Street, Postal Colony,
West Mambalam, CHENNAI 600 033.
9. M. Devarajan, Age 63 years, [HRMS No.199207551].
S/o (Late) Sri.M.Murugesan,
JE [Retired] O/o SDE (Internal), TE Chrompet, CNI-47
No.82/65, Pillaiyar Koil 1st Street,
Lakshmipuram, Chromepet, CHENNAI 600 044;
10. R. Dhasaradhan, Age 61 years, [HRMS No.199210795]
S/o (Late) Sri.Ramakrishnan,
JE [Retired], O/o SDE (G) TE Kalpakkam.
Residing at: S1, Alli Flats, PLOT NO.1, 10th Street Extension,
Sowmiya Nagar, Perumbakkam,
CHENNAI 600 100.
11. M. Angela Xavier, Age 59 years,
[HRMS No.198208908] D/o (late) Sri.F.Arockiasamy,
JTO [Retired] Telephone Exchange, Anna Nagar, CNI-101.
Residing at: Door No.2, Plot No.216,
26th Street, J.B.Estate, Avadi, CHENNAI 600 054.
12. S. Muthusamy, Age 60 years, [HRMS No.199300804]
S/o (Late) Sri.K.Sellamuthu,
JE [Retired], O/o O/O BB, KK Nagar, Chennai,
Residing at: No.M1, /31 First Floor, Ezhil Tower,
Thirumagal Township, GST Road, GUDUVANCHERY 603 202;
13. S. Arul Selvan, Age 59 years [HRMS No.198203887],
S/o (Late) Sri.T.Subramaniam,
JTO [Retired], O/o DE NIB, TE, KK Nagar, Chennai-78,
Residing at: No.32, Main Road, Thimmarajampet,
KANCHIPURAM DISTRICT 631 601;
14. P. Ramachandran, Age 51 years [HRMS No.199102936],
S/o (Late) Sri.R.Piramanayagam,
AGM [Retired], O/o DGM (Vig), CHTD, Chennai-10,
Residing at: No.3B, Nickeline Nest, W86, North Main Road,
Anna Nagar West Extension, CHENNAI 600 101;
15. S.Balakrishnan, Age 59 years [198502132]
S/o (Late) Sri.M.Sivasubramanian,
AGM [Retired] O/o DGM CFA, Anna Nagar, CNI-102
Residing at: 3A/4 Prakasam Road, T.Nagar,
CHENNAI 600 017;
16. K. Vijayakumar, Age 56 years [HRMS No.199407270]
S/o Sri.S.Kannappan,
JE [Retired], O/o DE (STM)(TXN) St. Thomas Mt.TE CNI-16,



Residing at: No.7/123, Thangammal Colony,
Singaperumal Koil, CHENGALPET 603 204;

17. K. Neelakanta Prasad, Age 57 years,
[HRMS No. 199310829] S/o (Late) Sri.N.Kumaraswamy,
JE [Retired], O/o DGM (NWP-CM), Chennai-1
Residing at: PLOT No. 420 Door No.2B, Andal Nagar Extension,
3rd Street, Velacherry, CHENNAI 600 042;
18. T.S. Viswanathan, [HRMS No.197506085]
S/o (Late) Sri.T.K.Subramanian,
DGM IT [Retired], KK Nagar Telephone Exchange,
Residing at: G-1, SriLakshmi Apartments,
No.8/12, Varadappan Street, West Mambalam,
CHENNAI 600 083;
19. J. Muthukrishnan, Age 59 years [HRMS No.199406983]
S/o (Late) Sri.T.Jayaraman,
JE [Retired], O/o SDE BSNL Ganesh Nagar RSU, CNI-88
Residing at: No.12/8, Krishnapuram,
Shanthi Nagar 1st Cross, Adambakkam, CHENNAI 600 088.
20. A. Venkatesan, Age 58 years [HRMS No.198604599]
S/o (Late) Sri.R.A.Iyer,
AO [Retired], O/o DGM North West Kellys, CNI-10,
Residing at: No.55, Sath Sangam Street,
Madipakkam, CHENNAI 600 091.

(Advocate: M/s. N.K. Srinivasan)

Applicant(s)

-Vs-

1. The Chairman & Managing Director,
Bharat Sanchar Nigam Limited,
Corporate Office, Harishchandra Mathur Lane,
Janpath, NEW DELHI 110 001;
2. The Chief General Manager,
BSNL, Chennai Telephones,
78, Purasawalkam High Road,
CHENNAI 600 010;
3. The Principal Controller of Communication Accounts,
Tamil Nadu Circle,
7th Floor, R K Nagar Telephone Exchange Building,
238, R K Mutt Road, Chennai 600 028.



...Respondent(s)

(Advocate: Mr. M. Kishore Kumar, Sr.PC (R1-R2)
Mr. T.S. Ramarathnam (3))

ORDER

(Pronounced by Hon'ble Varun Sindhu Kul Kaumudi, Member (A))

Pursuant to the notification, dated 25.01.2024, the matter was heard in detail. We have heard the learned counsels, Mr.N.K.Srinivasan for the applicant and Mr.M.Kishore Kumar & Mr.T.S.Ramarathnam for the respondents, and perused the records.

2. This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

“(i) To call for the records of the Respondents leading to rejection of applicants' claim of one notional increment after completion of one full year service for the purpose of refixation of pension vide Letter No. AST/ADMN/PENSION CORR/2020-21/26 dated 21.01.2021 and the same may be pleased to set aside and quash;

ii) direct the respondents to comply with the judgment of the Hon'ble Supreme Court of India and other judicial forums and direct the respondents to grant one notional increment [Which falls next day of their retirement/superannuation) to the applicants after completion of one full year service along with admissible rate of interest with consequential benefits thereof;

(iii) To pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.”

3. The brief facts of the case, as submitted by the applicants, are as under:-

The applicants superannuated/retired from service on 31.05.2011, 31.05.2017, 31.12.2003, 30.06.2005, 31.12.2017, 31.12.2010, 30.06.2015, 31.07.2001, 31.05.2017, 30.04.2019, 31.01.2020, 31.01.2020, 31.01.2020,

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31.01.2020, 31.01.2020, 31.01.2020, 31.01.2020, 31.01.2020, 31.12.2011, 31.01.2020, 31.01.2020 respectively and increments were due for the applicants on 01.06.2011, 01.06.2017, 01.01.2004, 01.07.2005, 01.01.2018, 01.01.2011, 01.07.2015, 01.08.2001, 01.06.2017, 01.05.2019, 01.02.2020, 01.02.2020, 01.02.202, 01.02.2020, 01.02.2020, 01.02.2020, 01.02.2020, 01.01.2012, 01.02.2020, 01.02.2020, respectively. It is submitted that an annual increment is deemed to have fallen after completion of 365 days of continuous service of an individual and an increment usually represents inherently accrued portion of what an employee earns per year and, therefore, the applicants are entitled to an increment and denial of such an increment is unjustified. It is further submitted that the Hon'ble High Court of Madras in W.P. No. 15732 of 2017 had granted one notional increment after completion of one full year of service for the purpose of pensionary benefits. The applicants are also similarly placed as the applicant in the referred case and, therefore, eligible for one notional increment on superannuation. The applicants made individual representations to the respondents seeking grant of one notional increment, which was turned down by the respondents. Challenging the same, the applicants filed the instant O.A., seeking the aforesaid relief.

4. Respondents 1 to 2 and Respondent no.3 have filed their respective replies. It is seen from the reply filed by Respondents 1 to 2 that, besides taking the ground of delay, applicants are not similar and the respondents further stated that, as per the provisions under Service Rules on the subject, the relief sought by the applicants is not admissible. The respondents further stated that the case of M. Balasubramanian referred to by the Hon'ble High Court in its judgment in A. Ayyamperumal case is related to the Fundamental Rules of Tamil Nadu Government where the annual increments are regulated in four quarters, viz., 1st of January, April, July and October and, whereas, for BSNL employees it is the first



of every month of the year throughout, depending upon each individual's case. The respondents categorised the applicants into three groups to establish that they are not similar. Under Category-I, applicants nos. 06, 07 & 20, in the same order of sequence have completed only 6 months, 6 months and 4 months of service, respectively, between the last increment drawn and the date of retirement and not one full year of service to earn increment. Therefore, according to them, for this reason, the OA is liable to be dismissed as different categories of applicants joined together and filed this O.A. In Category -II, applicant nos. 11, 12, 13, 14, 15, 16, 17 & 19, who opted for the BSNL VRS-2019, by giving an undertaking of unconditional acceptance of all the terms and conditions of the scheme and also, after accepting the ex-gratia payment already made for the service left out under the package, the applicants cannot seek any further benefits outside the terms and conditions of the scheme. On this sole ground itself, the OA is liable to be dismissed as far as the applicants under Category II are concerned as these applicants were compensated already as per the scheme for the left out service. In Category-III, applicants 2, 5, 9, 10, 18, 1, 3, 4 & 8 retired under superannuation on various dates and their date of next increment falls on the next day of their retirement. It is submitted that the date of increment of an employee at the time of retirement is ultimately based on the option(s) exercised by the employee in respect of FR 22(1)(a)(i) pay fixation at the time of his time bound/post based promotions during his career, otherwise their increment date would have become due on some other day. Had the applicants exercised the said option for pay fixation as on the actual date of increment, their annual increment dates would not have fallen on the next day of their retirement. It is further submitted that the applicants' case, under Category I, II and III are not similar and identical to the case of Ayyamperuamal and, hence, they cannot seek the same relief, by citing the judgement in Ayyamperumal's case.

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5. Respondent No.3 has also filed separate reply in which it is stated that for applicant nos. 2, 6 & 7 the date of next increment has been wilfully wrongly furnished in the application, as if it is on the next day of their retirement, whereas their original date of next increment falls on different dates. On that basis itself, the case deserves dismissal. The judgement referred to by the applicants is in personam, in terms of DOPT OM, dated 11.11.2019. Further, there are no Rules/Provisions either in the Central Government or in the BSNL for according notional increment to employees who retire a day before their date of increment. The applicants become pensioners on the date of increment. They cannot be entitled to any increment which may fall due post-retirement. It is further stated that the request of the applicants could not be considered by the respondents' office. The respondents, therefore, pray for dismissal of the O.A.

6. Heard Mr. N.K. Srinivasan, Learned Counsel for the applicants and the Learned Counsel appearing for the respondents and gone through the O.A. and replies of the respective respondents and documents annexed to the same. Both the counsels reiterated the contentions made in the respective O.A. and their replies.

7. During the course of arguments, the learned counsel for the applicants produced before us a very recent decision, dated 11.04.2023, of the Hon'ble Supreme Court in Civil Appeal No. 2471 of 2023 (SLP(C) No. 6185/2020) in the case of the Director (Admn. And HR) KPTCL & Ors. vs. C.P. Mundinamani & Ors., and submitted that, after considering different decisions rendered by different Hon'ble High Courts, the Hon'ble Supreme Court rendered its decision and the issue therein is squarely applicable to the issue related to the applicants in the present O.A. Learned Counsel for the applicants has further drawn our attention to the operative portion of the judgement which is Para 7, as extracted hereunder:-

“7. In view of the above and for the reasons stated above, the Division Bench of the High Court has rightly directed the



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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.”

8. At the outset, the learned counsel for the applicants submits that since the issue involved in the present O.A. is squarely covered by the decision of the Hon'ble Supreme Court (Supra), his clients would be satisfied if the O.A. is directed to be disposed of by quashing and setting aside the impugned order and by directing the respondents to consider and dispose of the claim of the applicants in the light of the decision of the Hon'ble Supreme Court (supra) and extend the benefit of the judgement to the applicants by passing a reasoned and speaking order within a time frame fixed by the Tribunal.

9. We have gone through the decision of the Hon'ble Apex Court (Supra) produced before us by the Ld. Counsel for the applicants.

10. In view of the above, keeping the matter pending before us is not at all desirable and, accordingly, we are of the view that the ends of justice would be met if the OA is disposed of by quashing and setting aside the impugned order, vide Letter No. AST/ADMN/PENSION CORR/2020-21/26, dated 21.01.2021, and the respondents are directed to consider and dispose of the claim of the applicants in the light of the decision, dated 11.04.2023, of the Hon'ble Apex Court in Civil Appeal No. 2471 of 2023 (SLP(C) No. 6185/2020) in the case of the Director (Admn. And HR) KPTCL & Ors. vs. C.P. Mundinamani & Ors., and extend the benefit of the said judgement, if the applicants herein are similarly



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situated as the employees/respondents before the Hon'ble Supreme Court (Supra), by passing a reasoned and speaking order within a period of three months from the date of receipt of a copy of the order. Ordered, accordingly.

11. With the above direction, the O.A. is disposed of. There shall be no order as to costs.

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CAT (Procedure) Rules

/ TRUE COPY /
T. S. S. 20/12/2021
DEPUTY REGISTRAR

