



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: July 03, 2023

+ W.P.(C) 8746/2023 & CM APPLs. 33017/2023, 33018/2023 &
33019/2023

MINISTRY OF RAILWAY & ORS.

..... Petitioners

Through: Mr. Nirvikar Verma, SPC for UOI.

versus

SHRI SALIM AHMED KHAN & ORS.

..... Respondents

Through: Mr. Manjeet Singh Reen, Advocate.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO (Oral)

CM APPL. Nos. 33018/2023 and CM APPL. 33019/2023

1. Exemptions allowed, subject to all just exceptions.
2. Applications stand disposed of.

W.P.(C) 8746/2023 & CM APPL. No. 33017/2023

3. The challenge in this writ petition is to an order dated July 15, 2021 in Original Application being O.A. 1511/2020 ('OA', for short) passed by the Central Administrative Tribunal, Principal Bench, New Delhi and also to the order dated February 08, 2023 in Review Application 66/2021 in O.A. 1511/2020.



4. Vide an order dated July 15, 2020, the Tribunal has allowed a batch of OAs, which includes O.A. 1511/2020 by stating in paragraphs 7, 8, 9 and 10 as under:

“7. Be that as it may, once the various benches of the Tribunal, the Hon'ble High Courts and the Hon'ble Supreme Court held that the increment, which became due on 1st July or 1st January as the case may be, needs to be released for the employees, who retired one day earlier thereto, the applicants herein cannot be denied such benefit.

8. To protect the interests of the respondents, we direct that in case any different view is taken by the Hon'ble Supreme Court in SLP No. 4722/2021, the applicants shall be under obligation to refund the benefit that is extended to them. In the corresponding orders, a clause can be incorporated to that effect.

9. We make it clear that extension of benefit of increment shall be subject to their fulfilling other conditions under the relevant service rules.

10. For the foregoing reasons, the OAs are allowed, directing that:

(a) for such of the employees who retired on 30th June of any particular year, increment payable on 1st July shall be extended. Their pensions shall also be revised, subject to their fulfilling other conditions which are applicable. The arrears that become due shall be paid without interest;

(b) Similarly for employees, who retired on 31st December of a particular year, the increment payable on the 1st January of the next year shall be extended and pension revised, subject to same conditions in the same manner.



(c) While extending such benefits, a clause shall be incorporated to the effect that in case the Hon'ble Supreme takes a different view in the Civil Appeal arising out of SLP No. 4722j2021, they shall be under obligation to refund the entire benefit without any demur.

The aforesaid exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

Pending MAs shall also stand disposed of. There shall be no order as to costs."

5. Learned counsel for the parties concede to the fact that the issue in hand is covered by the judgment of the Supreme Court in the case of ***The Director (Admn. & HR) KPTCL & Ors. Versus C.P. Mundinamani & Ors., Civil Appeal No. 2471/2023***, decided on April 11, 2023.

6. If that be so, the Writ Petition is disposed of by stating that the parties shall be bound by the judgment of Supreme Court in the case of ***Director (Admn. & HR) KPTCL & Ors.*** (supra).

7. Learned counsel for the petitioner makes a plea that the cost as has been imposed by the Tribunal while deciding the review application, be waived. We find that the cost imposed has been directed to be deposited in the Prime Minister's Relief Fund. If that be so, we do not see any reason to waive the same.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

JULY 03, 2023/akc