

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.09.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NO.28072 OF 2019

&

W.M.P.NO.27691 OF 2019

M.E.Abdul Ghani

..Petitioner

vs

1. The Union of India,
Represented by Secretary to Government,
Ministry of Home Affairs, New Delhi.
2. The Director General,
Central Industrial Security Force,
CGO Complex, Lodhi Road, New Delhi - 110 003.
3. The Assistant Inspector General (Estt),
Central Industrial Security Force,
CGO Complex, Lodhi Road, New Delhi - 110 003.
4. The Deputy Inspector General
Central Industrial Security Force,
South Zone, Head Quarters,
Besant Nagar, Rajaji Bhawan,
Chennai - 600 090.
5. The Senior Commandant,
Central Industrial Security Force,
4th Battalion, NDRF, Suraksha Campus,
Arakkonam
6. The Deputy Commandant,
Central Industrial Security Force,
4th Battalion, NDRF, Suraksha Campus,
Arakkonam.

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 3rd respondent dated 30.04.2019 in his order No.E-27015/1/Pay

(Clari)/2019/Pers-II/743 and communicated by the 6th respondent in his office Memorandum No.E-28014/NDRF (A)/Accts/SA-MEAG/19-3556 dated 06.05.2019 and quash the same and to direct the respondents to pay Notional Increments for 2019 and revise the pension and pay the arrears.

For Petitioner : Mr.M.Md.Ibrahim Ali

For Respondents : Mr.K.S.Jayaganeshan
Standing Counsel

O R D E R

The prayer sought for in this Writ Petition is to call for the records relating to the order passed by the 3rd respondent dated 30.04.2019 in his order No.E-27015/1/Pay (Clari)/2019/Pers-II/743 and communicated by the 6th respondent in his office Memorandum No.E-28014/NDRF (A)/Accts/SA-MEAG/19-3556 dated 06.05.2019 and quash the same and to direct the respondents to pay Notional Increments for 2019 and revise the pension and pay the arrears.

2. By consent of both the parties, the Writ Petition is taken up for final disposal.

3. The case of the petitioner is that he had submitted the representations for the grant of notional increment on 28.11.2018 and 27.03.2019 to the 2nd respondent. However, the impugned order has been passed rejecting the representations of the petitioner without assigning any proper reason. It is his further case that in a similar case in W.P.15732 of 2017, the Division Bench of this Court by order dated 15.09.2017 has granted one notional increment. Hence, the petitioner is entitled to the benefit of order of this Hon'ble Court dated 15.09.2017 which has been confirmed by the Hon'ble Supreme Court by dismissing the SLP and Review Petition filed by the Union of India.

4. Mr.M.Md.Ibrahim Ali, learned counsel for the petitioner would submit that the petitioner had retired on 30.06.2019. The notional increment to the petitioner for every year has been granted on 1st of July. Accordingly, the petitioner is entitled to the notional increment for the year 2019 only on 01.07.2019. He would also submit that in a very same issue in W.P.No.15732 of 2017, the Division Bench of this Court has allowed the petition and granted relief to the petitioner and the same was confirmed by the Hon'ble Supreme Court in S.L.P.No.(Civil).22008 of 2018 vide order dated 23.07.2018. Therefore, he implore this Court to issue direction to the respondents to pay the notional increment to the petitioner.

5. Mr.K.S.Jayaganeshan, learned Standing counsel appearing for the respondents did not dispute the facts of the case submitted by the learned counsel for the petitioner.

6. Heard the counsels and perused the papers.

7. In the instant case, the petitioner had retired on 30.06.2019 and is entitled for one notional increment on or before 01.07.2019 however, the petitioner's claim was rejected. In the very same issue, the Hon'ble Apex Court while dismissing R.P.(C).No.1731/2019 in S.L.P.(C).No.22008 of 2018, has held as follows:

"Increment Issue: for those retired on 30th June, due increment is 1st July. Supreme Court of India dismissed Review Petition No.1731/2019 Judgement dated 8th August 2019 filed by the Government, indicated based on the merit, review petition submitted by Government was dismissed. Now, the national forums responsibility is to insist the government to implement the same to all the central government servants who are similarly placed instead of everybody approaching the Court of law for Justice and it is sheer waste of money and time."

8. In view of the above, the respondents are directed to pay the amounts within a period of eight weeks from the date of receipt of a copy of this order.

9. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is also closed.

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FOR CLARIFICATION

This Petition having been posted on this day 08.11.2019 "For Clarification" in pursuance to the order of this court dated 23.09.2019 and made herein in the presence of the above said Advocates, this court made the following order:-

This matter came up today i.e., on 08.11.2019 under the caption 'for clarification' at the instance of the learned counsel for the petitioner and the same is clarified. Therefore, the Registry is directed to issue the following order instead of previous order:

"1(a).The prayer sought for in this Writ Petition is to call for the records relating to the order passed by the 3rd respondent dated 30.04.2019 in his order No.E-27015/1/Pay

(Clari)/2019/Pers-II/743 and communicated by the 6th respondent in his office Memorandum No.E-28014/NDRF (A)/Accts/SA-MEAG/19-3556 dated 06.05.2019 and quash the same and to direct the respondents to pay Notional Increments for 2019 and revise the pension and pay the arrears.

2. By consent of both the parties, the Writ Petition is taken up for final disposal.

3. The case of the petitioner is that he had submitted the representations for the grant of notional increment on 28.11.2018 and 27.03.2019 to the 2nd respondent. However, the impugned order has been passed rejecting the representations of the petitioner without assigning any proper reason. It is his further case that in a similar case in W.P.15732 of 2017, the Division Bench of this Court by order dated 15.09.2017 has granted one notional increment. Hence, the petitioner is entitled to the benefit of order of this Hon'ble Court dated 15.09.2017 which has been confirmed by the Hon'ble Supreme Court by dismissing the SLP and Review Petition filed by the Union of India.

4. Mr.M.Md.Ibrahim Ali, learned counsel for the petitioner would submit that the petitioner had retired on 30.06.2019. The notional increment to the petitioner for every year has been granted on 1st of July. Accordingly, the petitioner is entitled to the notional increment for the year 2019 only on 01.07.2019. He would also submit that in a very same issue in W.P.No.15732 of 2017, the Division Bench of this Court has allowed the petition and granted relief to the petitioner and the same was confirmed by the Hon'ble Supreme Court in S.L.P.No.(Civil).22008 of 2018 vide order dated 23.07.2018. Therefore, he implore this Court to issue direction to the respondents to pay the notional increment to the petitioner.

5. Mr.K.S.Jayaganeshan, learned Standing counsel appearing for the respondents did not dispute the facts of the case submitted by the learned counsel for the petitioner.

6. Heard the counsels and perused the papers.

7. In the instant case, the petitioner had retired on 30.06.2019 and is entitled for one notional increment on or before 01.07.2019 however, the petitioner's claim was rejected.

8.Learned counsel appearing for the petitioner submitted that the Government of India has filed review petition against the Division Bench judgment of the Hon'ble Apex Court in R.P. (C).No.1731/2019 in S.L.P.(C).No.22008 of 2018 and the Hon'ble Apex Court has also dismissed the same.

9. In view of the above, the respondents are directed to pay the amounts to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

10. The Writ Petition is clarified with the above direction. No costs. Consequently, connected Miscellaneous Petition is also closed."

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Union of India,
Represented by Secretary to Government,
Ministry of Home Affairs, New Delhi.
2. The Director General,
Central Industrial Security Force,
CGO Complex, Lodhi Road, New Delhi - 110 003.
3. The Assistant Inspector General (Estt),
Central Industrial Security Force,
CGO Complex, Lodhi Road, New Delhi - 110 003.
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Central Industrial Security Force,
4th Battalion, NDRF, Suraksha Campus, Arakkonam
6. The Deputy Commandant,
Central Industrial Security Force,
4th Battalion, NDRF, Suraksha Campus, Arakkonam.

+2cc to Mr.M.Md.Ibrahim Ali, Advocate, S.R.No.92929, 81419

+1cc to Mr.K.S.Jayaganeshan, Advocate, S.R.No.81709

W.P.No.28072 of 2019 &
W.M.P.No.27691 of 2019

SSD(CO)
CS/22/01/2020