



W.P.(MD).No.1680 of 2024

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 30.01.2024**

**CORAM**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD).No.1680 of 2024**

Chidhambaram

... Petitioner

Vs

1. The Union of India,  
Represented by Secretary,  
Ministry of Personnel,  
Public Grievances and Pensions Department of  
Personnel and Training,  
North Block, New Delhi.
2. The Union of India,  
Represented by the Secretary,  
Ministry of Higher Education,  
New Delhi.
3. The Comptroller and Auditor General of India,  
New Delhi.
4. The Director,  
National Institute of Technology,  
Tiruchirappalli.

... Respondents



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**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pay the one year notional increment on the date of retirement from service on superannuation i.e., on 30.06.2013 and other benefits to the petitioner.

For Petitioner : Mr. S.Muthukrishnan

For Respondents : Mr.K.Govindarajan (R1 to R3)  
Deputy Solicitor General of India

Ms. Molia Roseline(R4)  
Standing Counsel

### **ORDER**

The present writ petition has been filed seeking a direction to the respondents to pay the one year notional increment on the date of retirement from service on superannuation i.e., on 30.06.2013 and other benefits to the petitioner.

2.By consent of both parties and considering the limited relief sought for by the petitioner, the Writ Petition is taken up for final disposal at the stage of admission itself.

3.Heard, the learned counsel appearing for the petitioner, the learned Deputy Solicitor General of India appearing for the respondents 1 to 3



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and the learned Standing Counsel appearing for the fourth respondent. Perused the materials on record.

4.(i).The petitioner was appointed in the fourth respondent's Institution. On 30.06.2016, he retired as Attendant (S.G1) . His last drawn pay salary was Rs.29,200/-. He was not sanctioned increment for the last one year of service, since he retired from service on 30.06.2016.

(ii).Originally the procedure followed by the respondents is that the employees retired either on 30<sup>th</sup> June or 31<sup>st</sup> December of the year are eligible for notional increment in the respective slab of scales of pay for the purpose of pensionary benefit, even though the actual date of next increment is on 1<sup>st</sup> July or 1<sup>st</sup> January of the year.

(iii).The petitioner requested the fourth respondent to sanction the last one increment to him, even though he had completed last one year of service from the previous date of increment. However, the respondents did not pay the one increment for the employees retired either on 30<sup>th</sup> June or 31<sup>st</sup> December. Therefore, the matter was taken before this Court in W.P.No.15732



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of 2017. Thereafter, the matter was decided by the Hon'ble Apex Court in S.L.P.No.4722 of 2021, dated 11.04.2023, in which, the Hon'ble Apex Court held that the employees who retired on superannuation either on 30<sup>th</sup> June or 31<sup>st</sup> December are eligible to get notional increment for one year.

(iv).Pursuant to the same, the first respondent issued a circular, dated 26.06.2023 stating that further action will be taken on completion of the consultation process. The third respondent also issued a letter to the Senior Deputy Accountant General, Uttarpradesh seeking to pass an order to pay the notional increment to the pensioners. The Principal Secretary to Government of Tamil Nadu, Finance (CMPC) Department issued G.O.Ms.No.311, dated 31.12.2014 to pay the notional increment to the employees retired on superannuation, on completion of one year of service, which are countable for the increment under the Fundamental Rules 26, be sanctioned with one notional increment at the rate as described under the Rule 6 of Tamil Nadu Revised Scales of Pay Rules, 2009 exclusively for the purpose of pensionary benefits. On that basis, the petitioner is eligible to get one increment even though he was retired from service on 30.06.2016, for which, he had submitted a



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representation on 19.09.2023 to the fourth respondent. However, the same was not considered. Hence, this petition came to be filed.

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

6. Considering the limited scope of the relief sought for by the petitioner, without going into the merits of the case, this Court hereby directs the fourth respondent to consider the representation of the petitioner, dated 19.09.2023 and pass appropriate orders in accordance with law, within a period of twelve (12) weeks, from the date of receipt of a copy of this order.



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7. With the above direction, this writ petition stands disposed of.

There shall be no order as to costs.

**30.01.2024**

NCC : Yes / No

Index : Yes / No

Internet : Yes

**PNM**

To

1. The Union of India,  
Represented by Secretary,  
Ministry of Personnel,  
Public Grievances and Pensions Department of  
Personnel and Training,  
North Block, New Delhi.
2. The Union of India,  
Represented by the Secretary,  
Ministry of Higher Education,  
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3. The Comptroller and Auditor General of India,  
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**L.VICTORIA GOWRI, J.**

PNM

**ORDER IN**  
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