पूर्व मध्य रेल
EAST CENTRAL RAILWAY

कार्यालय
महाप्रबंधक(का)
हाजीपुर

PCPO's Sl No 24/2021

No. E/207/O/ECR/HJP

1. CAO (Con.)/उत्तर एवं दक्षिण/पटना।
2. सभी PHOD/CHOD/पूमरे/हाजीपुर।
3. DRM/पूमरे/दानापुर, डीडीयू, धनबाद, सोनपुर एवं समस्तीपुर।
4. मुख्य कार्मिक अधिकारी/प्रशासन/पूमरे/हाजीपुर।
5. मुख्यालय के सभी कार्मिक अधिकारी।
6. CWM/पीडी/डीडीयू, यांत्रिक कारखाना/समस्तीपुर एवं हरनौत।
7. Sr.DPO/पूमरे/दानापुर, डीडीयू, धनबाद, सोनपुर एवं समस्तीपुर।
8. उप महाप्रबंधक/विधि/पटना।
9. प्राचार्य/क्षेत्रीय रेल प्रशिक्षण संस्थान/मुजफ्फपुर एवं भूली।
10. सभी मुकार्याधी/कार्याधी/पूमरे/हाजीपुर

विषयः– Grant of Notional increment (as due on 1st July) for the pensionary benefits to those employees who had retired on 30th of June before drawing the same-Clarification reg.

संदर्भः– Railway Board's letter No.-PC-VI/2020/Misc./01, dated-01.03.2021.

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विषयांकित से संबंधित संदर्भित पत्र की छायाप्रति सूचना, मार्गदर्शन एवं अग्रेत्तर आवश्यक कार्रवाई हेतु प्रेषित की जा रही है।

A copy of above referred letter on the subject matter is being forwarded herewith for information, guidance and needful onward action please.

संलग्नकः यथोपरि।

DA: As above.

Signed by Saurabh Sawarn
Date: 18-03-2021 13:07:23
Reason: Approved
(सौरभ सावर्ण)
वकाधि/ई.एस.एम.
कृते महाप्रबंधक (का0)/हाजीपुर

प्रतिलिपि/– निम्नलिखित को सूचनार्थ, मार्गदर्शन एवं आवश्यक कार्रवाई हेतु प्रेषितः–

1. महासचिव/ईसीआरकेयू/पूमरे/हाजीपुर।
2. महासचिव/एस.सी.एवं एस.टी.एशोसिएशन/पूमरे/हाजीपुर।
3. सकाधि(एम.पी.पी.)/पूमरे/हाजीपुर–कृपया इसे वेबसाइट पर अपलोड करें।
4. महासचिव/ओ.बी.सी.एशोसिएशन/पूमरे/हाजीपुर।

कृते महाप्रबंधक (का0)/हाजीपुर

532434/2021/O/o Dy.CPO/HQ/ECR

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

08 MAR 2021

No. PC-VI/2020/Misc./01 New Delhi, dated: 01.03.2021

The General Manager (P),
All Indian Railways
& Production Units

000519

(Attn.: All PCPOs)

Sub: Grant of notional increment (as due on 1st July) for the pensionary benefits to those employees who had retired on 30th of June before drawing the same – Clarification reg.

Ref: Board's letter No. PC-VI/2018/R-I/1 Pt. dated 21.05.2020.

Attention is invited to Board's letter under reference whereby the advice/ clarification of DOP&T on the issue of grant of notional increment for the pensionary benefits to those employees who had retired on 30th of June was circulated to all Zonal Railways & Production Units with a request to dispose all pending representations/ defend pending court cases, if any, on the issue accordingly.

2. It has been observed that fresh cases on the issue of notional increment benefit are being filed all across the Indian Railways. Accordingly, the matter was again referred to DOP&T seeking further guidelines for effectively contesting such cases. Consequently, DOP&T vide their O.M. No. 19/2/2018-Estt (Pay-I) dated 03.02.2021 has issued further clarification in the matter citing various judgements pronounced in favour of Union of India/ relevant rule provisions etc. A copy of DOP&T's O.M. dated 03.02.2021 is attached herewith for effective utilization of the same in defending/ disposing various cases/ representations on the issue of notional increment.

3. The above guidelines/ clarification of DOP&T may be suitably incorporated in the counter reply proposed to be filed before the Hon'ble CAT/ Court while defending such cases. The counter reply so prepared may be sent invariably to this office for approval before filing. It must be ensured that in any case the counter reply shall not be filed without getting the same approved from this office.

4. Considering the seriousness of the matter, various Railways where similar cases have been filed, were advised to nominate a competent JA Grade officer to regularly monitor these cases in consultation with Railway Advocate. It was also desired that Railway Board be kept apprised of these cases regularly. However, it is seen that the monitoring of these cases has not been at the desired level in some of the Railways.

5. It is also advised that as soon as the case is decided necessary application for supply of certified copy should be made. Upon receipt of the same, a copy thereof may invariably be sent to this office for being shared with other Railways or taking necessary remedial action, as the case may be. In the event of the case being decided against the interests of Union of India, process for drafting and filing Review Application/ Writ Petition should be initiated expeditiously in consultation with this office.

6. Receipt of this letter may please be acknowledged.

DA: As above

1/3/21

(M. K. Gupta)
Executive Director, Pay Commission – II
Railway Board

532434/2021/O/o Dy.CPO/HQ/ECR

F. No. 19/2/2018-Estt (Pay-I)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

North Block, New Delhi
Dated 3rd February, 2021

OFFICE MEMORANDUM

Subject: References/Representations/Court cases for granting notional increment for pensionary benefits in pursuance of the judgement dated 15.09.2017 of Hon'ble High Court of Madras in W.P. No. 15732 of 2017 in the case of P. Ayyamperumal Vs Union of India & Ors-regarding.

***

The undersigned is directed to refer to references/representations/ court cases/VIP references, received in this Department in large numbers on the issue of granting notional increment for pensionary benefits to those Central government servants who have retired on 30th June/ 31st December of a year, in pursuance of the judgement dated 15.09.2017 of Hon'ble High Court of Madras in W.P. No. 15732 of 2017 in the case of P. Ayyamperumal Vs Union of India & Ors.

2. The issue has been examined in this Department in consultation with Department of Legal Affairs and it has been observed that the judgement dated 15.09.2017 of Hon'ble High Court of Madras in W.P. No.15732 of 2017 in the case of P. Ayyamperumal Vs Union of India & Ors. is *'in personam'* in nature. A brief note reflecting the Government's stand on this issue is attached as Annexure-I.

3. Further, it is also mentioned that in a similar case, the Hon'ble Supreme Court, vide judgment dated 29.03.2019 (copy enclosed as Annexure-II), while dismissing the SLP (C) Dy. No.6468/2019 filed by D/o Telecommunications against the judgment dated 03.05.2017 of Hon'ble High Court, Lucknow Bench in WP No.484/2010 in the matter of UOI & Ors. Vs. Sakha Ram Tripathy & Ors., has, *inter alia,* observed the following:

> *"There is delay of 566 days in filing the special leave petition. We do not see any reason to condone the delay. The Special leave petition is dismissed on delay,* ***keeping all the questions of law open.****"*

4. Since the question of law is open and not yet decided, decision for implementation of the judgement dated 15.09.2017 of Hon'ble High Court of Madras in W.P. No. 15732 of 2017 in Shri P. Ayyamperumal case, *in rem* has not been taken.

Annexure-I

Note on issue of granting a notional increment for pensionary benefits in pursuance of the judgment dated 15.09.2017 of Hon'ble High Court of Madras in W.P. No.15732 of 2017 in the case of P. Ayyamperumal Vs Union of India & Ors.

***

Hon'ble High Court of Madras, vide Order dated 15.09.2017, allowed the W.P. No. 15732 of 2017 filed by Shri P. Ayyamperumal relying upon its earlier judgment dated 20.09.2012 in W.P. No. 8440 of 2011 M. Balasubramaniam Vs State of Tamil Nadu. The said case referred by Hon'ble High Court in the said judgement is related to the Fundamental Rules of Tamil Nadu Government whereas the case of petitioner Shri P. Ayyamperumal relates to Central Government Rules. As per the provisions under the Tamil Nadu Fundamental Rule 26(a), the annual increments of the Govt. Servants are regulated in four quarters viz. 1st January, 1st April, 1st July and 1st October. For the Central Government, the increment accrues annually on 1st July only (6th CPC scenario) [now 1st July and 1st January in 7th CPC scenario]. Hence, argument of petitioner is devoid of merits.

2. In light of the relevant provisions of the Fundamental Rules like 9 (21), 9(6), 17(1), 22, 26(a) and 56(a), as also the provisions of CCS (RP) Rules, 2008, a person appointed as a Government servant is entitled to pay, and is also entitled to draw the annual increment as long as such Government servant discharges duties of the post. However, such Government servant may not be entitled to draw the pay and allowances attached to the post as soon as he ceases to discharge those duties. In other words, as per F.R. 17 read with F.Rs. 24 and 26, annual increment is given to a Government servant to enable him to discharge duty and draw pay and allowances attached to the post. If such Government servant ceases to discharge duties by any reason say, by reason of attainment of age of superannuation, he will not be entitled to draw pay and allowances. Such an employee would not be entitled to any increment if it falls due after the date of retirement, be it on the next day of retirement or sometime thereafter. An employee must satisfy not only the condition of becoming entitled for increment, but also should continue to be on duty as a Government servant on the due date (1st July/ 1st January) to avail the increment.

Annexure - II

ITEM NO.14 COURT NO.7 SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 6468/2019

(Arising out of impugned final judgment and order dated 03-05-2017 in Service Bench No. 484/2010 passed by the High Court Of Judicature At Allahabad, Lucknow Bench)

UNION OF INDIA & ORS. Petitioner(s)

VERSUS

SAKHA RAM TRIPATHI Respondent(s)

(FOR ADMISSION and Interim Relief and
IA No.44315/2019-CONDONATION OF DELAY IN FILING)

Date : 29-03-2019 This petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s) Ms. Madhvi Divan, ASG
Mr. Anmol Chandan, Adv
Mr. Amit Sharma, Adv
Mr. Gurmeet Singh Makker, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

We have heard Ms. Madhvi Divan, learned Additional Solicitor General for the petitioner-Union of India.

There is delay of 566 days in filing the special leave petition. We do not see any reason to condone the delay.

The special leave petition is dismissed on delay, keeping all the questions of law open.

Signature Not Verified
Digitally signed by MAHABIR SINGH
Date: 2019.03.29 16:41:37 IST
Reason:

Pending applications, if any, shall also stand disposed of.

(MAHABIR SINGH)
COURT MASTER

(RAJINDER KAUR)
BRANCH OFFICER