Eastern Railway
(Personnel Department)
17 N. S. Road, Kolkata - 700 001

Serial Circular No.81/2023

No. E.511/0/Pt.I

Kolkata, Dated: 23/06/2023

All Concerned
(as per standard list)

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.

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A copy of Ministry of Railways (Railway Board) letter bearing no. PC-VI/2020/CC/13, dated 20/06/2023 on the above cited subject is circulated herewith along with its enclosures for information and further necessary action. A copy of Board's earlier letter dated 13/04/2021 is also enclosed for ready reference.

DA: As above.

23/6/23

(S.K. Chattopadhyay)
Sr. Personnel Officer/HQ
For Pr. Chief Personnel Officer
Phone No. 24122 (Rly.)

23/6/23.

Index No. 1057: Instructions regarding filing of Miscellaneous Application before the concerned Tribunal/Court in consultation with contesting counsel for seeking further time for compliance of orders/filing of reply, as the case may be.

MOST IMMEDIATE
COURT CASE MATTER

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. PC-VI/2020/CC/13

New Delhi, dated: 20.06.2023

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

(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 of even number dated 13.04.2021.

Attention is invited to Board's letter under reference whereby a copy of Hon'ble Supreme Court's order dated 05.04.2021 pronounced in SLP (C) No. 4722/2021 (Union of India & Ors Vs M. Siddaraj) whereby interim stay was granted on implementation of Hon'ble CAT/ Bangalore Bench's order grating benefit of notional increment was circulated to all Zonal Railways/ PUs.

2. The aforesaid SLP has recently been dismissed by Hon'ble Supreme Court vide their order dated 19.05.2023 (**copy enclosed**) inter-alia disposing all similar pending applications and directing the Union of India to grant the benefit of notional increment to all the original applicants & intervenors.

3. Considering the repercussions & far reaching implications of Hon'ble Supreme Court above judgement whereby the law involved on this issue has been interpreted on merit; this Ministry has already referred the matter to DOP&T (being the nodal department on the issue) vide Board's O.M. dated 21.04.2023 (**copy enclosed**) seeking further course of action to be adopted in contesting the cases on notional increment and further remedial measures/ legal provisions, if any available, to safeguard the interests of Union of India. This Ministry is persistently following up the matter with DOP&T; however, the solicited response on the policy aspects of grant of benefit of notional increment is still awaited.

4. Necessary clarification/ guidelines will subsequently be issued to all Zonal Railways/ PUs on receipt of the same from DOP&T. Meanwhile, it is advised that a Miscellaneous Application may be filed before the concerned Tribunal/ Court in consultation with the contesting counsel seeking further time for compliance of orders/ filing of reply, as the case may be.

5. This issues with the approval of the competent authority.

DA: As above

20/6/23

(Jaya Kumar G)
Dy. Director, Pay Commission – VII & HRMS
Railway Board
Tel. No. 011-47845125
Email add: jaya.kumarg@gov.in
4th floor, Room No. 6

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 4722 of 2021)

UNION OF INDIA & ANR. .....APPELLANT(S)

VERSUS

M. SIDDARAJ ... RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). OF 2023
(@ SPECIAL LEAVE PETITION (C) No(s). of 2023
@Diary No. 40684/2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 5699 of 2023)

CIVIL APPEAL NO(S). OF 2023
@Diary No. 2853/2023)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 4129 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 12190 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 12439 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 3419 of 2023)

Signature Not Verified
Digitally signed by GEETA AHUJA
Date: 2022.05.23 16:17:34 IST
Reason:

CIVIL APPEAL NOS. OF 2023
(@ SPECIAL LEAVE PETITION (C) Nos. 6784-6785 of 2023)

CIVIL APPEAL NO. OF 2023

(@ SPECIAL LEAVE PETITION (C) No. 3420 of 2023)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 1001 of 2023)

AND

CIVIL APPEAL NO(S). OF 2023
@Diary No. 874/2023)

ORDER

Applications for leave to appeal in Diary No. 2853/2023 & Diary No. 874/2023 are allowed.

Delay condoned.

Leave granted.

The issue raised in these appeals is squarely covered by a judgment rendered in Civil Appeal No. 2471 of 2023 decided on 11.04.2023 titled as Director (Admn. And HR) KPTCL and Others Vs. C.P. Mundinamani and Others (2023) SCC Online SC 401.

The issue being same, the present civil appeals also stand disposed of in terms of the aforesaid judgment.

All the intervention applications are allowed and the intervenors shall also be entitled to the same relief.

Pending application(s), if any, also stand disposed of.

….....……....……..,J.
(KRISHNA MURARI)

……..…....….....…..,J.
(SANJAY KUMAR)

NEW DELHI;
19TH MAY, 2023

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 4722/2021

(Arising out of impugned final judgment and order dated 22-10-2020 in WP No. 146967/2020 passed by the High Court Of Karnataka Circuit Bench At Dharwad)

UNION OF INDIA & ANR. Petitioner(s)

VERSUS

M. SIDDARAJ Respondent(s)

(OFFICE REPORT FOR DIRECTION
IA No. 155624/2021 - APPLICATION FOR PERMISSION
IA No. 130658/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 130647/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 168502/2021 - INTERVENTION APPLICATION
IA No. 126159/2021 - INTERVENTION/IMPLEADMENT
IA No. 132377/2021 - INTERVENTION/IMPLEADMENT
IA No. 130653/2021 - INTERVENTION/IMPLEADMENT
IA No. 130642/2021 - INTERVENTION/IMPLEADMENT
IA No. 66111/2023 - INTERVENTION/IMPLEADMENT
IA No. 126161/2021 - PERMISSION TO APPEAR AND ARGUE IN PERSON)

WITH
Diary No(s). 40684/2022 (IX)
(IA No.14366/2023-CONDONATION OF DELAY IN FILING and IA No.14368/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.14369/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 5699/2023 (IX)
(FOR ADMISSION and I.R. and IA No.40796/2023-CONDONATION OF DELAY IN FILING and IA No.40798/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.40800/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

Diary No(s). 2853/2023 (XVII)
(IA No.32344/2023-CONDONATION OF DELAY IN FILING and IA No.32345/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.32342/2023-EX-PARTE STAY and IA No.32347/2023-LEAVE TO APPEAL U/S 31(1) OF THE ARMED FORCES TRIBUNAL ACT, 2007)

SLP(C) No. 4129/2022 (XI)
(IA No.33692/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 118510/2022 - APPLICATION FOR TRANSPOSITION
IA No. 33692/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED

JUDGMENT)

SLP(C) No. 12190/2022 (XI)

IA No. 94664/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 12439/2022 (XI)

SLP(C) No. 3419/2023 (IX)
(FOR ADMISSION and I.R. and IA No.154490/2022-CONDONATION OF DELAY IN FILING and IA No.154492/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.154493/2022-EXEMPTION FROM FILING O.T. and IA No.154489/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 6784-6785/2023 (IX)
(FOR ADMISSION and I.R. and IA No.145192/2022-CONDONATION OF DELAY IN FILING and IA No.145193/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 3420/2023 (IX)
(IA No.189873/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.189872/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 1001/2023 (IX)
(FOR ADMISSION and I.R. and IA No.189546/2022-CONDONATION OF DELAY IN FILING and IA No.189547/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.189549/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 874/2023 (XVII)
(FOR ADMISSION and IA No.12727/2023-STAY APPLICATION and IA No.12731/2023-CONDONATION OF DELAY IN FILING APPEAL and IA No.12729/2023-LEAVE TO APPEAL U/S 31(1) OF THE ARMED FORCES TRIBUNAL ACT, 2007)

Date : 19-05-2023 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE KRISHNA MURARI
HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s)
Ms. Madhvi Divan, A.S.G.
Ms. Aishwarya Bhati, Ld. ASG
Mr. Mukesh Kumar Maroria, AOR
Ms. Anamika Agarwal, Adv.
Mr. Amit Sharma B, Adv.
Mr. Rajesh Kumar Singh, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Raghav Sharma, Adv.

Ms. Vaishali Verma, Adv.

Mrs. Madhavi Divan, A.S.G.
Mrs. Aishwarya Bhati, A.S.G.
Mr. Nidhi Khanna, Adv.
Ms. Ameyavikrama Thanvi, Adv.
Ms. Nidhi Khanna, Adv.
Mr. Anmol Chandan, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Mr. Ashok Panigrahi, Adv.
Mr. Digvijay Dam, Adv.
Mr. Ishaan Sharma, Adv.
Ms. Priyanka Das, Adv.
Mr. Nachiketa Joshi, Adv.
Mr. Prashant Rawat, Adv.
Ms. Preeti Rani, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Suhaskumar Kadam, Adv.
Mr. Prashant Kumar, Adv.
Mr. Ganpatrao Katkar, Adv.
M/S. Black & White Solicitors, AOR

Mr. J.N. Singh, Adv.
Mr. Abhisek Singh, Adv.
Mrs. Sadhana Singh, Adv.
Mr. Shashwat Goel, AOR

Mr. Chandra Prakash, AOR

Mrs. Madhvi Divan, A.S.G.
Mr. Amrish Kumar, AOR
Mr. Nachiketa Joshi, Adv.
Mr. Amit Sharma B, Adv.
Mrs. Vaishali Verma, Adv.
Mr. Akshay Amritanshu, Adv.

Mr. Yashwant Singh Yadav, Adv.
Mr. Anubhav, Adv.
Mr. Vijay Pal, Adv.
Ms. Namrata Trivedi, ADv.
Mr. Anil Kumar, Adv.
Mr. Umang Tripathi, Adv.
Ms. Preeti Yadav, Adv.
Mr. Amit Garg, Adv.
Mr. Rameshwar P. Goyal, AOR

For Respondent(s)

Mr. Amit Yadav, Adv.
Mr. Nilakanta Nayak, Adv.
Mr. B.d. Das, Adv.

Mr. Shishir Deshpande, AOR

Mr. Shreeyash Uday Lalit, Adv.
Mr. Ishaan George, AOR
Mr. Abhinav Aggarwal, Adv.
Mr. Krishnagopal Abhay, Adv.
Ms. Runjhun Garg, Adv.

Mr. Pahlad Singh Sharma, AOR
Ms. Manju Jetley, AOR
Mr. Dinesh Kumar Gupta, AOR

Mr. Arvind Kumar Shukla, Adv.
Ms. Reetu Sharma, AOR
Mr. Nihal Ahmad, Adv.
Mr. Shantanu Shukla, Adv.
Mr. Tushar Swami, Adv.

Mr. Anand Sanjay M. Nuli, Adv.
Mr. Suraj Kaushik, Adv.
Ms. Nandini Pandey, Adv.
Mr. Nanda Kumar K.B, Adv.
Mr. Shiva Swaroop, Adv.
M/S. Nuli & Nuli, AOR

Mr. Rameshwar Prasad Goyal, AOR
Mr. Pranay Dubey, Adv.
Ms. Ratna Priya Pradhan, Adv.
Mr. Rajat Kapoor, Adv.
Ms. Sulekha Sharma, Adv.
Mr. Navin Kumar, Adv.

Mr. Anand Dilip Landge, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.

Applicant-in-person, AOR

Mr. R. C. Kaushik, AOR
Mr. Vidya Sagar, Adv.
Mr. Amolak, Adv.
Ms. Bano Deswal, Adv.

Mr. Venkita Subramoniam T.R, AOR
Mr. Likhi Chand Bonsle, Adv.
Mr. Rahat Bansal, Adv.

Ms. Shirin Khajuria, AOR
Ms. Nayan Gupta, Adv.
Ms. Oshi Verma, Adv.

1/3065748/202

Mr. Hrishikesh Chitaley, Adv.
Mr. Vijay Kari Singh, Adv.
Mr. Rajat Joseph, AOR

Mr. Devesh Chauvia, Adv.
Mr. Kumar Dushyant Singh, AOR
Mr. Mukul Lather, Adv.
Ms. Subasri Jaganathan, Adv.

Mr. Abhishek Kaushik, Adv.
Mr. Gopal Singh, Adv.
Mr. Kumar Mihir, AOR

UPON hearing the counsel the Court made the following

O R D E R

Permission to appear and argue in person is granted.

Applications for leave to appeal in Diary No. 2853/2023 & Diary No. 874/2023 are allowed.

Delay condoned.

Leave granted.

The civil appeals stand disposed of in terms of the signed order.

All the intervention applications are allowed and the intervenors shall also be entitled to the same relief.

Pending application(s), if any, also stand disposed of.

(SONIA GULATI)
SENIOR PERSONAL ASSISTANT

(BEENA JOLLY)
COURT MASTER (NSH)

(Signed order is placed on the file)

I/3065748/2023

MOST URGENT
COURT CASE

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. PC-VI/2020/Misc./01

New Delhi, dated: 21 .04.2023

OFFICE MEMORANDUM

Sub: Grant of benefit of one 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.

The undersigned is directed to refer to DOP&T's O.M. No. 1442509/2021-Estt (Pay-I) dated 11.02.2021 whereby a copy of DOP&T's guidelines/ instructions issued vide O.M. No. 19/2/201/-Estt (Pay-I) dated 03.02.2021 was forwarded to this Ministry to effectively utilize the same while defending the cases on the issue of grant of notional (as due on 1st July of the retirement year) for the purpose of pensionary benefits to those employees who had retired on 30th of June before drawing the same.

2. This Ministry has been contesting all such cases based on the above advice of DOP&T. In one such case viz. SLP (C) No. 4722/2021 (Union of India & Ors Vs M. Siddaraj) filed before Hon'ble Supreme Court of India against the order dated 22.10.2020 pronounced by Hon'ble High Court of Karnataka's in W. P. No. 146967 of 2020 (UOI & Ors Vs M. Siddaraj) challenging Hon'ble CAT/ Bangalore Bench's order dated 18.12.2019 in O.A. No. 170/677/2019; Hon'ble Supreme Court vide their order dated 05.04.2021 had granted stay on implementation of order dated 18.12.2019. A copy of the stay order was also forwarded to DOP&T vide this Ministry's O.M. dated 28.05.2021 (**copy enclosed**) for utilizing the same in defending the cases on the similar issue to ensure unified stand before courts of law.

3. Subsequent to above, another SLP (C) No. 012439/2022 (Union of India & Ors Vs Anil Kumar Gupta & Ors) on the similar issue of notional increment was filed before Hon'ble Supreme Court and tagged with SLP (C) No. 4722/2021 (UOI & Ors Vs M. Siddaraj) and is presently pending for adjudication before the Hon'ble Supreme Court. Further, in yet another similar proposal for filing SLP, Ld. ASG Ms. Aishwarya Bhati, has opined that it is a fit case for preferring an SLP against the impugned order dated 18.01.2023 passed by the Hon'ble High Court of Allahabad in WP No. 11368 of 2023 in the matter of UOI & Ors Vs S. K. Misra & Ors as it raises important questions of law of general public importance and the issue is also pending consideration before the Hon'ble Supreme Court. A copy of opinion tendered by Ld. ASG is also enclosed herewith.

4. Meanwhile, it has come to the notice of this Ministry that Hon'ble Supreme Court vide their order dated 11.04.2023 (**copy enclosed**) has dismissed Civil Appeal No. 2471 of 2023 arising out of SLP (C) No. 6185 of 2020 {The Director (Admn. and HR) KPTCL & Ors Vs C. P. Mundinamani & Ors} with the following observations:

> *"In view of the above and for the reasons stated above, the Division Bench of the High Court has rightly directed the 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."*

5. Vide aforesaid order, the Hon'ble Supreme Court has interpreted the law involved and decided the issue of notional increment on merit through a detailed reasoned judgement dated 11.04.2023 taking into consideration all relevant judgements pronounced various courts of law on the issue of notional increment which have been decided in favour & also against the interests of Union of India. The aforesaid judgement would have far reaching implications and there is a high probability that the same would be cited/ highlighted by the petitioners in similar cases being contested before various courts of law seeking the benefit of notional increment which would eventually have a cascading effect on such cases including those dismissed or adjourned sine die subject to the outcome of SLP (C) No. 4722/2021 (UOI & Ors Vs M. Siddaraj).

...contd.

1/3065748/2023

6. Consequent to the said judgement, the issue of notional increment seems to have attained finality and the judgement pronounced by the Hon'ble Apex Court has become the law of land under Article 141 and all the lower courts are bound to abide by the same. Thus, the stand adopted by this Ministry in similar cases may get infructuous as very clear & specific directions have been given by Hon'ble Apex Court subsequent to the stay order dated 05.04.2021 in M. Siddaraj SLP.

7. Such implications/ cascading effects would not be limited to this Ministry only, but, would also impact other Ministries/ Departments of Govt. of India to a greater extent. Accordingly, DOP&T is hereby requested to:

(i) Furnish the considered opinion/ views on the judgement dated 11.04.2023 pronounced by Hon'ble Supreme Court in SLP (C) No. 6185 of 2020 {The Director (Admn. and HR) KPTCL & Ors Vs C. P. Mundinamani & Ors}.

(ii) Apprise this Ministry of the action taken/ stand adopted by DOP&T in contesting/defending cases on the issue of notional increment consequent to above judgement of Hon'ble Apex Court.

(iii) Apprise this Ministry of remedial measures/ legal provisions, if any available, to safeguard the interests of Union of India in notional increment cases.

DA: As above

21/04/2023

(Sundeep Pal)
Executive Director, Pay Commission
Railway Board
Tel. No. 011-47845117
Email add: sundeep.p@gov.in
4th floor, Room No. 7

Ministry of Personnel, PG & Pension
{Kind Attn: Shri Manoj Kumar Dwivedi, Addl. Secretary (E)}
(DOP&T), Room No. 109,
North Block, New Delhi – 110001

MOST IMMEDIATE
COURT CASE

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. PC-VI/2020/CC/13

New Delhi, dated: 13.04.2021

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

(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 letters No. PC-VI/2020/Misc./01 dated 01.03.2021 & PC-VI/2018/R-I/1 Pt. dated 21.05.2020.

A number of cases have been filed across all Indian Railways by various retired employees who had retired on 30th of June of a year seeking the benefit of notional increment (as due on 1st July of the retirement year) for the purpose of pensionary benefits primarily relying upon the judgment of Hon'ble High Court of Madras in W.P. No. 15732/2017 in the matter of Sh. Ayyamperumal.

2. Keeping in view the intricacies involved and the cascading effect of any adverse judgement in the aforesaid cases; relevant guidelines of DOP&T in the matter were circulated to all Zonal Railways/PUs vide Board's letters under reference with a request to dispose all pending representations/ defend pending court cases, if any, on the issue accordingly.

3. In one such case viz. SLP (C) No. 004722 - /2021 (Union of India & Ors Vs M.Siddaraj) filed before Hon'ble Supreme Court of India vide Dy. No. 5821/2021, Hon'ble Supreme Court vide their order dated 05.04.2021 (**copy enclosed**) have granted stay on implementation of Hon'ble CAT/ Bangalore Bench's order while observing as under:

"Issue notice returnable after three weeks.

In the meanwhile, there will be stay of operation of the order dated 18th December, 2019 of the Central Administrative Tribunal, Bangalore Bench in Original Application No. 170/00677/2019, affirmed by the judgement and order impugned. The Petitioners shall, however, in the meanwhile without prejudice to the rights and contentions of parties pay retiral dues of the Respondent computed on the basis of the last pay drawn by him on the date of his retirement, that is, 30.06.2014."

4. The above factual position/ observation of Hon'ble Supreme Court may be brought to the notice of respective Hon'ble Tribunals/ Courts by filing an appropriate application. Further, the same shall also be invariably incorporated in the counter reply/ parawise comments in further cases, if any, filed on the similar issue to safeguard the interests of Union of India effectively.

5. It may be ensured that the nominated Railway Advocates are properly & timely briefed on the matter.

6. Receipt of this letter may please be acknowledged.

DA: As above

13/4/21

(M. K. Gupta)
Executive Director, Pay Commission – II
Railway Board
Tel. No. 011-23370081
Email add: mkguptairps.97@gov.in
1st floor, Room No. 152-B