



No. 6/183/2018-4PR (FD),

From

The Additional Chief Secretary to Government Haryana
Finance Department.

To

1. All of the Administrative Secretaries in Haryana State.
2. All of the Heads of Departments in Haryana State.
3. All of the Divisional Commissioners in Haryana State.
4. All of the Deputy Commissioners in Haryana State.
5. All of the SDOs (Civil) in Haryana State.

Date Chandigarh the, 3.4.2019

Subject: Grant of Notional Increment on completion of 12 Months of Service on 1st of July of a Calendar Year (After Retirement) for the purpose of Pension to Govt. employees. - Dealing with the Pending/Under Consideration Cases.

Sir,

I have been directed to refer to the subject cited above and to state that the Hon'ble Madras High Court vide its **judgment dated 15.9.2017 in CWP No. 15732 of 2017-P. Ayyamperumal Vs. Union of India** had allowed an Annual Increment on notional basis for the purpose of pensionary benefits to the petitioner on 1.7.2013 who had otherwise retired on 30.6.2013. The rationale of the judgment was that the Increment has to be granted on completion of one full year of service and since the employee concerned had retired on 30.6.2013 after rendering the full length of service of one year from 1.7.2012 to 30.6.2013 he was allowed the Annual Increment as on 1.7.2013 on notional basis for the purpose of pensionary benefits. This judgment was later on upheld in the Hon'ble Supreme Court in SLP No. 22283 of 2018- Union of India Vs. P. Ayyamperumal, decided on 23.7.2018.

A number of cases on the same lines are being received comprising administrative proposals, judgments from the Hon'ble Punjab & Haryana High Court delivered in terms of judgment of Hon'ble Supreme Court *ibid*. Further, a number of CWPs, Representations from retired Employees and certain Legal Notices have also been received and have been pouring in regularly relying upon the judgment of Hon'ble Supreme Court *ibid*.

In view of the above the matter was considered meticulously weighing all possible pros and cones and since the judgment of Hon'ble Supreme Court *ibid* has been delivered in a case where Central Govt. was party, the Central Govt. has, therefore, been requested vide this Department letter dated 28.3.2019 to apprise of the latest position in this respect to the Haryana Govt. so that appropriate policy decision may be taken accordingly. This request has been sent to Central Govt. since the remedy of Review



Application and Curative Petition still subsists with it and it would be in the fitness of things that a decision by the Haryana Govt. may be taken only after ascertainment of final decision from the Govt. of India. **A copy of request dated 28.3.2019 sent to Central Govt. is attached herein.**

In view of the above it is requested that all of the pending cases i.e. CWP/Court Cases, Representations, Legal Notices on the instant subject may be dealt with/disposed of accordingly. In the decided cases wherein a direction has been issued by the Hon'ble High Court/ Ld. Courts to decide the Representations/Legal Notices of the Petitioners the Petitioners/Counsel of the Petitioners may be informed accordingly. Likewise, adjournment may be requested in the cases where Reply is to be filed. The under consideration Representations/Legal Notices may also be disposed of in the same terms informing the factual position to the Employees/Counsels concerned. The next line of action will be informed in due course.

Uran

Chief Accounts Officer (PR)
for Additional Chief Secretary to Government Haryana,
Finance Department

3/4/2019

Endst . No. 6/183/2018-4PR(FD)

Date 3.4.2019

A copy is forwarded to the Accountant General Haryana, (A&E) and (Audit), Chandigarh for information.

Uran

Chief Accounts Officer (PR)
for Additional Chief Secretary to Government Haryana,
Finance Department

3/4/2019



No. 6/183/2018-4PR (FD)

To

The Secretary to the Govt. of India
Ministry of Personnel, Public Grievance and Pensions
Department of Pension
New Delhi

Date 28th March 2018

Subject:- Grant of Notional Increment on completion of 12 Months of Service on 1st July of Calendar year (After Retirement) for the purpose of Pension to Govt. employees.

Respected Sir,

I am directed to refer to the subject cited above and to state that the Haryana Govt. has broadly followed the pattern of Central Govt. in Pay and Pension Structure while making its Pay and Pension Rules pursuant to recommendations of Central Pay Commissions. In the Pay Rule of 2006 there was a uniform date of grant of Annual Increment being 1st of July of every calendar month whereas in the 2016 Rules there are two dates being 1st of January and 1st of July depending upon the circumstances. The minimum length of service to earn the Annual Increment is uniform in both of the Rules i.e. six months of qualifying service.

Some of the retired Officers/Employees brought to the notice of this Department a judgment dated 15.9.2017 (**Copy Attached**) of DB of Hon'ble Madras High Court delivered in CWP No. 15732 of 2017- P. Ayyamperumal Vs. Union of India wherein the Hon'ble Madras High Court has allowed the benefit of Annual Increment on notional basis to the Petitioner who retired on 30.6.2013 for Pensionary benefits only for the period of 1.7.2012 to 30.6.2013 though the Increment fell due on 1.7.2013. The Operative Part of the judgment ibid is reproduced herein below for your ready reference:-

"The petitioner herein had completed one full year service as on 30.6.2013, but the increment fell due on 1.7.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.3.2017 is quashed. The petitioner shall be given one notional increment for the period from 1.7.2012 to 30.6.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No Costs."

This judgment was later on upheld by the Hon'ble Supreme Court of India vide its judgment dated 23.7.2018 (**Copy Attached**) in SLP No. 22283 of 2018 and the inference comes out is that this issue has attained finality until and unless it has been challenged further by the Govt. of India by means of Review Application/Curative Petition, if any.



In view of the legal position as above, the Hon'ble Punjab & Haryana High Court has disposed of number of cases in the same terms against the State of Haryana wherein the retired employees of the Haryana Govt. had demanded similar benefit being affinity of Rules. Besides, a number of CWPs/Court Cases are also sub judice in the Hon'ble High Court and the Haryana Govt. is not able to file proper reply therein in view of the judgment of Hon'ble Supreme Court *ibid*. Further, a number of Legal Notices are also pending and lot more are also pouring in on regular intervals from the retired employees demanding same benefits and a warning of filing of Court Case in the case of denial thereof is also being conveyed.

As such, it is kindly requested that the factual position may be clarified conspicuously as per points mentioned below:-

1. As to whether the Govt. of India has further challenged the aforesaid judgment in SLP by way of RA/Curative Petition and if yes, the detail thereof may please be conveyed.
2. If the action to challenge has not been materialized then as to whether it is under consideration.
3. As to whether the same has been implemented and if yes, the copy of relevant Rule/Instruction/Order may please be provided.
4. It may please be clarified, in case this judgment has been implemented, as to whether the Notional Increment is countable for Pension purpose exclusively or for other retiral benefits i.e. Communication of Pension, DFRG and Leave Encashment etc.
5. Though the judgment *ibid* has been delivered keeping in view the Pay Rules 2006 wherein only single date of Annual Increment i.e. 1st July of every calendar year was provided whereas with the commencement of 2016 Rules there have been provided two dates of Increments i.e. 1st of January and 1st of July. It may, therefore, please be clarified as to whether it would also apply to Govt. employees retiring after 01.01.2016.
6. As to whether the Govt. of India has accordingly amended or contemplating to amend its Pay and Pension Rules (please clarify conspicuously) to make them compatible in view of the factual position as such.


The aforesaid information/documents may please be provided at the earliest so that the Haryana Govt. may take appropriate decision in all the pending cases accordingly and no awkward position is faced in the Hon'ble High Court/other Ld. Courts.

If this issue does not relate to this Department/Division then this communication may please be refereed/transferred to the Department/Division concerned under intimation to this Department so as to enable it to follow-up the same accordingly with the authority concerned.

Thanking You

DA/ As above

Yours Faithfully,


Chief Accounts Officer
for Additional Chief Secretary to Govt. Haryana
Finance Department
(Haryana Civil Secretariat, Chandigarh)