

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. PC-VI/2020/CC/13

New Delhi, dated: 07.10.2024

**The General Managers/ Principal Financial Advisors,
All Zonal Railways & Production Units**

Sub: Grant of notional increment (as due on 1st July/1st January) for the pensionary benefits to those employees who had retired on 30th of June/ 31st of December before drawing the same – Clarification reg.

Ref: Board's letter No. PC-VI/2023/Misc./03-Vol.II dated 27.08.2024.

Attention is invited to Board's letter under reference (copy enclosed) whereby all Zonal Railways/PUs were advised the further course of action to be adopted in various cases related to grant of benefit of notional increment.

2. In continuation to above, it is further stated that the clarificatory petition filed by this Ministry before Hon'ble Supreme Court vide Dy. No. 2400/2024 (Union of India & Ors Vs M. Siddaraj) seeking clarification on their judgement dated 19.05.2024 pronounced in SLP (C) No. 4722/2021 was taken up for hearing by the Hon'ble Apex Court on 06.09.2024 wherein the Hon'ble Court had made certain important observations and directed as under (copy enclosed):

"To prevent any further litigation and confusion, by of an interim order we direct that:

- (a) The judgment dated 11.04.2023 will be given effect to in case of third parties from the date of the judgment, that is, the pension by taking into account one increment will be payable on and after 01.05.2023. Enhanced pension for the period prior to 31.04.2023 will not be paid.*
- (b) For persons who have filed writ petitions and succeeded, the directions given in the said judgment will operate as res judicata, and accordingly, an enhanced pension by taking one increment would have to be paid.*
- (c) The direction in (b) will not apply, where the judgment has not attained finality, and cases where an appeal has been preferred, or if filed, is entertained by the appellate court.*
- (d) In case any retired employee has filed any application for intervention/impleadment in Civil Appeal No. 3933/2023 or any other writ petition and a beneficial order has been passed, the enhanced pension by including one increment will be payable from the month in which the application for intervention/impleadment was filed.*

This interim order will continue till further orders of this Court. However, no person who has already received an enhanced pension including arrears, will be affected by the directions in (a), (c) and (d)."

... Contd.

3. The aforesaid orders are being examined by the nodal Ministry i.e. DOP&T in consultation with the concerned Ministries such as Deptt. of Expenditure, Ministry of Law etc and a policy/ clarification is yet to be issued. Once a policy / clarification is issued by the nodal Ministry, the same will be adopted by Ministry of Railways also.

4. Till such time, policy directions are issued by the nodal Ministry, keeping in view the important developments as explained above, all Zonal Railways/PUs are hereby advised that in fresh O.As/W.Ps filed on the issue of grant of benefit of notional increment and in cases which have been recently decided allowing the benefit of notional increment; a Misc. Application/ revised affidavit may be filed before the concerned Hon'ble Court/ Tribunal with a prayer as under:

4.1. Scenario – 1: In cases where fresh O.As have been filed.

- (a) In such cases, a detailed affidavit may be filed before Hon'ble Tribunals/Courts bringing the interim order dated 06.09.2024 pronounced by Hon'ble Supreme Court to their notice, stating that the issue of notional increment has not yet attained finality and the matter is still pending with Hon'ble Apex Court for adjudication. As such, the Hon'ble Tribunal/ Court may be requested to defer further proceedings in the case till the matter is finally adjudicated by the Hon'ble Apex Court.
- (b) In case even after filing of the detailed affidavit, the Hon'ble Tribunal/ Court doesn't defer/ adjourn the case proceedings and allows the O.A./ W.P. granting the benefit to the petitioner(s); the said order may be challenged before the higher judicial forum only if the same is in contravention to the directions issued by the Hon'ble Supreme Court vide order dated 06.09.2024. If not, further necessary action may be taken in terms of the directions contained in Hon'ble Apex Court's order dated 06.09.2024.

4.2. Scenario – 2: In cases where the O.As have been allowed by granting the benefit to the petitioner(s) irrespective of the fact whether any Contempt Petition has been filed or not.

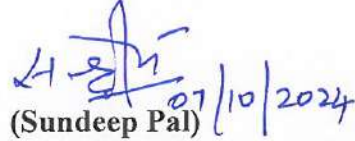
- (a) In such cases, a Review Petition may be filed before the Hon'ble Tribunal/ Court stating that Hon'ble Apex Court vide their detailed order dated 06.09.2024 has issued various guidelines/ clarifications regarding the modalities to be adopted while implementing their order dated 11.04.2023 pronounced in CA No. 2471/2023 {The Director (Admn. And HR) KPTCL & Ors V C. P. Mundinamani & Ors}.
- (b) The respective Tribunal/ Court may be apprised that the Hon'ble Apex Court vide their aforesaid order dated 06.09.2024 has specifically mentioned the cut-off date i.e. 01.05.2023 for applicability of their order dated 11.04.2023. As such, the benefit of notional increment can only be granted w.e.f. 01.05.2023 and not from a date prior to 01.05.2023, barring those cases which have already been decided/ settled prior to the date of interim order i.e. 06.09.2024.
- (c) Considering the fact that the issue of notional increment is still pending before Hon'ble Supreme Court for final adjudication; Hon'ble Court/Tribunal may be requested to modify the orders to grant the benefit of notional increment w.e.f. 01.05.2023 and not from the 01st of July of the retirement year of the petitioner(s) and the implementation of orders may also be deferred till a final decision is pronounced by the Hon'ble Apex Court.

... Contd .

(d) In case, the Hon'ble Court/Tribunal still dismisses the Review Petition without revising/modifying their earlier order, then, the same may be challenged before the higher judicial forum only if the said order is in contravention to the directions issued by the Hon'ble Supreme Court vide order dated 06.09.2024. If not, further necessary action may be taken in terms of the directions contained in Hon'ble Apex Court's order dated 06.09.2024.

5. In this regard, a revised affidavit is attached herewith for finalizing the same and filing before the concerned Tribunal/ Court in consultation with the contesting Railway Counsel. This may kindly be accorded Top Priority. Action taken in the matter may also be apprised to this office.

DA: As above


(Sundeep Pal) 07/10/2024

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Copy to:

- i) PSO to CRB & CEO
- ii) Sr. PPS to MF
- iii) PPS to DG/HR
- iv) PPS to Secretary