No. 1432648/2020-Estt (Pay-I) Government of India Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training)

North Block, New Delhi Dated the St. October, 2020

OFFICE MEMORANDUM

Subject: Grant of one notional increment to those Government servants who retired on 30th June after completing one year service

The undersigned is directed to refer to DO letter No 6/183/2018-4PR(FD) dated 25.09.2020 from Shri T.V.S.N. Prasad, Additional Chief Secretary to Govt. of Haryana, Finance & Planning Department on the subject cited above.

- 2. In this matter, with reference to Central Government employees, the following is hereby stated:
- 2.1. In so far as P. Ayyamperumal case is concerned, referred in the instant case also, it is stated that the judgment Hon'ble High Court of Madras in P. Ayyamperumal case is in personam.
- 2.2 Further, the case of Sh. M Balasubramaniam referred by Hon'ble High Court in it's judgment in P. Ayyamperumal case is related to Fundamental Rules of Tamilnadu Government whereas P. Ayyamperumal case relates to Central Government Rules.
- 2.3 It is relevant to mention here that in a similar matter, Hon'ble High Court of Andhra Pradesh at Hyderabad in year 2005, in C. Subbarao case, has interalia observed as under:

"In support of the above observations, the Division Bench also placed reliance on Banerjee case (supra), we are afraid, the Division Bench was not correct in coming to the conclusion that being a reward for unblemished past service, Government servant retiring on the last day of the month would also be entitled for increment even after such increment is due after retirement. We have already made reference to all Rules governing the situation. There is no warrant to come to such conclusion. Increment is given (See Article 43 of CS Regulations) as a periodical rise to a Government employee for the good behavior in the service. Such increment is possible only when the appointment is "Progressive Appointment" and it is not a universal rule. Further, as per Rule 14 of the Pension Rules, a

person is entitled for pay, increment and other allowances only when he is entitled to receive pay from out of Consolidated Fund of India and continues to be in Government service. A person who retires on the last working day would not be entitled for any increment falling due on the next day and payable next day thereafter (See Article 151 of CS Regulations), because he would not answer the tests in these Rules. Reliance placed on Banerjee case (supra) is also in our considered opinion not correct because as observed by us. Banerjee case (supra) does not deal with increment, but deals with enhancement of DA by the Central Government to pensioners. Therefore, we are not able to accept the view taken by the Division Bench. We accordingly, overrule the judgment in Malakondalah case (supra)."

- 2.4 In addition, subsequent to the judgment of Hon'ble High Court of Madras in P. Ayyamperumal case, Hon'ble CAT Madras Bench vide its Orders dated 19.03.2019 in O.A.No.310/00309/2019 and O.A. No.310/00312/2019 and Order dated 27.03.2019 in O.A. No.310/00026/2019 has also dismissed the similar requests related with notional increment for pensionary benefits.
- 2.5 The Hon'ble Supreme Court, vide judgment dated 29.03.2019, 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.**"

3. In the light of above observations, The Government of Haryana is requested to take further appropriate action.

(Rajeev Bahree)

Under Secretary to the Government of India Tel. No.23040489

Government of Haryana

(Sh. T.V.S.N. Prasad, IAS, Additional Chief Secretary (Finance & Planning))

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