



PBC No. 39 / 2025



दक्षिण रेलवे Southern Railway
प्रधान मुख्य कार्मिक अधिकारी कार्यालय
Office of the Principal Chief Personnel Officer
प्रधान कार्यालय, कार्मिक विभाग, चेन्नै-600003
Headquarters, Personnel Department, Chennai-600003

सं/No: P(R) 524 / P/ Fixation / Vol.IX

दिनांक/Dated: 05.02.2025

All PHODs/ DRMs/ CWMs/ CEWE/ CAO/ CPM/ PDA/ Dy.CPOs/ Sr.DPOs/ Secy to GM,
Chairman/RRB/MAS,TVC, Addl.Registrar/RCT/MAS, Secretary/RRT/MAS,
Principal MDZTI/TPJ, SRCETC/TBM, ZETTC/AVD,
DPOs/SPOs/WPOs/APOs of HQ/Divisions /Workshops/Units.

**विषय/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 - reg**

A copy Railway Board's letter No. PC-VI/2020/CC/13 dated 03.12.2024
alongwith a copy of DOPT's O.M. No. 19/11/2024-Pers.Pol.(Pay)(Pt.) dated
14.10.2024 on the above subject is enclosed for strict compliance and
implementation of the instructions communicated therein.

Railway Board's letter dated 07.10.2024 referred therein is enclosed for
reference

संलग्नक/Encl. 164 pages

CHILAKALAPUDI
I ANJANIKUMAR
Digitally signed by
CHILAKALAPUDI ANJANIKUMAR
Date: 2025.02.05 17:26:19
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सहायक कर्मचारी संबंधी अधिकारी/Asst Personnel Officer / IR & Trg.
कृते प्रमुकाधि/For Principal Chief Personnel Officer

प्रतिलिपि/Copy to: The General Secretary/SRMU

The General Secretary / DREU

The General Secretary/AISCTREA

The General Secretary/AIOBCREA

The General Secretary/NFIR

IT Section/PB/HQ - to upload in the SR website.

MOST URGENT
COURT CASE

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. PC-VI/2020/CC/13

New Delhi, dated: 03.12.2024

**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 07.10.2024.

Attention is invited to Board's letter under reference 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 subject to the policy directions issued by the nodal department viz. DOP&T.

2. In continuation to above, it is hereby informed that consequent to Hon'ble Supreme Court's interim order dated 06.09.2024 pronounced in MA No. 2400/2024 (Union of India & Ors Vs M. Siddaraj), DOP&T vide their O.M. No. 19/11/2024-Pers.Pol.(Pay)(Pt.) dated 14.10.2024 has issued necessary clarification on the issue of grant of notional increment. A copy of DOP&T's aforesaid O.M. dated 14.10.2024 is enclosed herewith for information and compliance. These instructions shall apply *mutatis mutandis* on the Railways also.

3. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

DA: As above


(Sundeeep Pal) 03/12/24

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

No. 19/116/2024-Pers.Pol. (Pay)(Pt)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block, New Delhi
Dated the 14th October, 2024.

OFFICE MEMORANDUM

Subject: Grant of notional increment on 1st July / 1st January to the employees who retired from Central Govt. service on 30th June / 31st December respectively for the purpose of calculating their pensionary benefits - regarding.

The undersigned is directed to say that in terms of Rule 10 of the Central Civil Services (Revise Pay) Rules, 2006, notified by D/o Expenditure vide Notification No. G.S.R. 622 (E) dated 29.08.2008, date of annual increment was made uniform viz. 1st July of every year with effect from 01.01.2006. It was subsequently decided vide Rule 10 (1) of the Central Civil Services (Revise Pay) Rules, 2016, notified by D/o Expenditure vide Notification No. G.S.R. 721 (E) dated 25.07.2016, that there shall be two dates for grant of increment namely 1st January and 1st July of every year.

2. Hon'ble High Court of Madras in its Order dated 15.09.2017 in W.P. No.15732 of 2017 - P. Ayyamperumal Vs Union of India & Ors. allowed grant of notional increment to the petitioner on the day following the date of his retirement from service for the purpose of calculation of pensionary benefits. Judgement in the case of Shri P. Ayyamperumal was implemented *in personam*. Following this, D/o Personnel and Training (DoPT) received a number of representations from the employees who superannuated on 30th June/ 31st December claiming similar benefit. Large number of Court cases have also been filed before Hon'ble Administrative Tribunals, High Courts and Supreme Court on the subject matter.

3. The issue was examined in consultation with the nodal authorities concerned and with due regard to the relevant provisions in the Fundamental Rules (FRs) which regulate grant of increment to the Central Government employees. It is pertinent to note that FR 9(21)(a) defines 'pay' as the amount sanctioned to a Government servant for a post held by him substantively or in an officiating capacity or to which he is entitled by reason of his position in a cadre. FR 17 provides that subject to any exceptions specifically made in these Rules, an employee shall begin to draw the pay and allowances attached to his tenure of a post with effect from the date when he assumes the duties of that post and shall cease to draw them as soon as he ceases to discharge those duties. Further, FR 24 stipulates that an increment may be withheld from a Government servant if his conduct has not been good or his work has not been satisfactory. To summarise these Rule provisions, for availing the benefit of an increment on the date of its accrual, an employee should be in service, should have rendered satisfactory work and should have displayed good conduct during the period of qualifying service.

4. However, Hon'ble Supreme Court vide Order dated 11.04.2023 in Civil Appeal No.2471 of 2023 (@ SLP (C) No. 6185/2020) - Director (Admn. and HR), KPTCL Vs C.P.

27/8
14.10.2024

Mundinamani & Ors, upheld the Orders passed by the Division Bench of the Hon'ble High Court of Karnataka at Bengaluru in Writ Appeal No. 4193/2017 allowing grant of one annual increment, which the original writ petitioners earned on the last day of their service for rendering services during preceding one year from the date of retirement with good behaviour and efficiently, for the purpose of calculating the retiral benefits. However, Union of India was not among the Parties in the said case.

5. Subsequently, Hon'ble Supreme Court vide Order dated 19.05.2023 dismissed SLP(C) No.4722/2021(UoI Vs M. Siddaraj) filed by M/o Railways on the subject matter with the observation that the appeals filed therein are squarely covered by the Order dated 11.04.2023 in CA No. 2471 of 2023. M/o Railways filed a Miscellaneous Application (MA No. 2400/2024) before the Hon'ble Supreme Court seeking guidance/clarification regarding the modalities to be adopted while implementing its Order dated 19.05.2023. On 22.07.2024, while hearing the matter, Supreme Court ordered that the learned counsel for the Union of India shall examine as to whether Union of India needs to file an application in CA No.2471/2023 disposed of vide judgment dated 11.04.2023. After due legal consultations on the directions of the Apex Court, this Department filed a Petition (Dy. No. 36418/2024) before Supreme Court on 12.08.2024 seeking review of its Order dated 11.04.2023 which is pending before the Hon'ble Supreme Court.

6. Meanwhile, on 06.09.2024, while hearing MA No. 2400/2024 filed by M/o Railways along with several Intervention Applications tagged therewith, Hon'ble Supreme Court took note of the pending Petition (Dy. No. 36418/2024) filed by Union of India seeking review of its Order dated 11.04.2023 in CA No.2471/2023 in the matter. While observing that the issue raised in the applications requires consideration insofar as the date of applicability of the judgment dated 11.04.2023 in CA No. 2471/2023 to third parties is concerned, Hon'ble Court issued following directions, by way of an Interim Order, to prevent any further litigation and confusion:

- 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 30.04.2023 (erroneously mentioned as 31.04.2023 in the Order) 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).

2/8/14.10.2024

Relist in the week commencing 04.11.2024."

7. The matter has been examined in consultation with D/o Expenditure and D/o Legal Affairs. It is advised that in pursuance of the Order dated 06.09.2024 of the Hon'ble Supreme Court referred above, action may be taken to allow the increment on 1st July/ 1st January to the Central Government employees who retired/are retiring a day before it became due i.e. on 30th June/31st December and have rendered the requisite qualifying service as on the date of their superannuation with satisfactory work and good conduct for calculating the pension admissible to them. As specifically mentioned in the Orders of the Hon'ble Supreme Court, grant of the notional increment on 1st January/1st July shall be reckoned only for the purpose of calculating the pension admissible and not for the purpose of calculation of other pensionary benefits..

8. It may also be noted that these instructions are being issued in compliance of the Interim Orders dated 06.09.2024 of the Hon'ble Supreme Court in MA Dy. No.2400/2024 without prejudice to the legal stand of the Union of India in the matter and without prejudice to any change of law in this regard. Further, the action taken shall be subject to the final outcome of the Review Petition (Dy. No.36418/2024) pending before the Hon'ble Supreme Court which is expected to be heard by the Apex Court in the week commencing 04.11.2024.

9. This issues with the concurrence of D/o Expenditure vide their Dy. No. 08-09/2019-E.III.A(Vol.III)(3969602) dated 08.10.2024 and D/o Legal Affairs vide Computer Dy. No. E 128445 dated 30.09.2024.

10. Hindi Version will follow.


14.10.2024
(Mahesh Kumar)

Under Secretary to the Government of India
Tel. No.011-23094542

To

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

Executive Director, Pay Commission
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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