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**BHARAT PENSIONERS'
SAMAJ**

(All India Federation of Pensioners' Associations)
(Registered No. 2023 of 1962-63), Recognised by GOI-DOP&PW
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Dated: 30.07.2022

To
Shri Kiren Rijju
Honourable Union Minister
Law & Justice GOI
Dr Jitender Singh Ji
Honourable MOS (independent charge)
PMO GOI

Subject: Notional increment to those retired on 30th June- Extension of judicial decisions in a matter of a general nature to all similarly placed

Sir,

5th CPC vide their Para 126.5 . recommended as follows :

“We have observed that frequently, in cases of service litigation involving many similarly placed employees, the benefit of judgment is only extended to those employees who had agitated the matter before the Tribunal/ Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the full bench of Central Administrative Tribunal, Bangalore in the case of C.S. Elias Ahmed and others Vs UOI and others (OA 451 and 541 of 1991) wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has been upheld by the supreme court in this case as well as in numerous other judgments like GC Ghosh vs UOI (1992) 19 ATC 94 (SC) dated 20.7.1988, K. I. Shepherd vs UOI (JT 1987(3) SC 600, Abid Hussain vs UOI (JT 1987 (1) SC 147) etc. **Accordingly, we recommend that when the decision is taken in one specific case by the judiciary or the Govt. be applied to all other identical cases.**”

In Amrit Lal vs Collector of Central Excise, Delhi (1975 (1) SLR 153 SC), the Hon'ble Apex Court held as under:

“ When a citizen aggrieved by the Govt. department has approached the court and obtained a declaration of law in his favour; others in like circumstances should be able to rely on the senses of responsibility of the department concerned and to accept that they will be given the benefits of declaration without need to take their grievances to the court.”

The government of India agreed to implement judgments in 'rem' to all similarly placed. 'rem' has been described by the Hon'ble High court of Madras In C.L.Pasupathy v. Engineer in Chief (WRO) reported in 2009 (2) MLJ 491 which has achieved legal finality & is Law now.

However, the Department of Law & Justice GOI ignoring 5th CPC recommendation, Pronouncement of honourable supreme court & the description of 'rem' in the judgment of honourable Madras high court Madras In C.L.Pasupathy vs. Engineer in Chief (WRO) reported in 2009 (2) MLJ 49, Invariably classify as in Person every judgment which is favourable to Pensioners & push pensioner after pensioner to courts to seek redress of the issues already decided.

A glaring example is that of Madras High court judgement in WP 15732/2017

P. Ayyamperumal vs The Registrar on 15 September 2017 which has gained legal finality . This Judgment is

on the subject matter of increment falling due on the day following retirement day i.e. 30th June thus it is in 'rem'

Besides, CAT Ernakulam. High courts of Madras, Madhya Pradesh (Jabalpur & Indore) and Delhi have given favourable judgments considering the judgment in P. Ayyamperuam of Madras high court to be the law and the same have been upheld by the Honourable Supreme court.

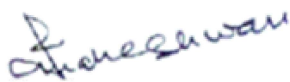
Department-related Parliamentary standing committee on personnel, public grievances, law and justice vide their para 3.35 of 110th report has also recommended considering the case of Pensioners' who retired on 30th June and were denied the increment on the plea that next date of retirement is 1st July.

The Honourable Delhi Court in W.P.(C) 5539/2019 ARUN CHHIBBER versus UNION OF INDIA AND ORS. O R D E R dated 13.01.2020 **rejected the contention** of the respondents (UOI & others) that the judgment in P. Ayyamperuam case had to be treated as one that was in persona and not in rem.

Honourable Supreme Court order dated 27.07.2022 in Writ Petition (Civil) No.643/2015 vide para 5 on page 17 Says, that the retiring Judicial Officers shall have the benefit of increment becoming due the next day following the retirement.

Sir, in view of the submission in the foregoing Para & keeping in mind Article 14 of the constitution Bharat Pensioners Samaj, request you to revisit the issue favourably & to grant the benefit of increment becoming due the next day following the retirement to all C.G. employees retired or will be retiring on 30th June at par with retiring Judicial officers. As certainly, Central Government employee & Pensioners are not 2nd class citizens compared to retiring Judicial officers.

Thanking you
With regards
Sincerely Yours,



S.C.Maheshwari
Secy. Genl. Bharat Pensioners Samaj