

From:

Date: xxxxxxxx

Xxxxxxxxxxx

Income Tax Officer (Retd)

Hyderabad

To:

The Commissioner of Income Tax-1,
5th Floor, Aaykar Bhavan, Basheer Bagh,
Hyderabad.

Sir/Madam,

Sub :Request for grant of notional increment – In the case ofxxxx – Date of
birth 01-07-19XX.- Reg.

This is to bring to your kind notice that I have retired on superannuation from
your office on xxxxxx. My details are given below.

Name	
PPO No.	
Office in which I was working as on date of retirement	
Date of Retirement	
Date of Birth	
Date of increment drawn before retirement	
Basic pay as on date of retirement	
Address for communication	
E-mail / Mobile	

2. As per the provisions of FR 56(a), a Government Servant shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years. The proviso under this Rule states that a Government Servant whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years.

3. Normally, a Government Servant is entitled for annual increment after completion of twelve months of service. Before the recommendations of the 6th CPC, date of increment was falling within every calendar month for different government servants depending upon various factors like date of joining, date of promotion, date of option given for pay fixation, etc. The 6th CPC rationalised the date of increment by providing for uniform date of annual increment i.e. 1st July every year. The 7th CPC

provided for two dates for grant of annual increment, i.e., 1st July and 1st January every year.

4. In view of the proviso under FR 56(a) mentioned above, Government Servants born on 1st July are retired on superannuation on 30th June as a result of which they are denied the annual increment which becomes due on 1st July though they have completed twelve months of service. This apparent discrimination has been subject matter of litigation and the matter has been put to rest by the Hon'ble Supreme Court in the case of P. Ayyamperumal Vs Union of India & Others and also has been reiterated by various courts as mentioned below.

(i) The Hon'ble High Court of Madras vide its order dated 15-09-2017 in W.P. No.15732 of 2017 in the case of P.Ayyamperumal Vs Union of India & Others held that the petitioner whose date of birth was 1st July and who was retired on 30-06-2013 was entitled for one notional increment falling due on 01-07-2013 as he has completed one year of service as on 30-06-2013. This order of the High Court of Madras was confirmed by the Hon'ble Supreme Court of India vide its order dated 23-07-2018 in SLP (Civil) Diary Nos. 22283/2018.

(ii) In the case of K. Sreedharan Vs Union of India, the Central Administrative Tribunal, Ernakulam Bench vide its order dated 03-12-2019 in OA No.180/01055/2018, relying upon the judgement in the case of P. Ayyamperumal, granted one notional increment which was due on 01-07-2013 to the petitioner who retired on 30-06-2013 as the petitioner completed on full year of service as on 30-06-2013. Vide this order, the Hon'ble Tribunal also disposed off a bunch of similar petitions in favour of the applicants.

(iii) In the case of Rajendra Prasad Tiwari Vs The State of Madhya Pradesh, the Hon'ble High Court of Madhya Pradesh at Jabalpur, vide its order dated 03-12-2019 in WP No. 18030-2019 relying upon the judgement in the case of P. Ayyamperumal, granted one notional increment which was due on 01-07-2015 to the petitioner who retired on 30-06-2015 as the petitioner completed on full year of service as on 30-06-2015.

(iv) In the case of M.E.Abdul Ghani Vs Union of India The Hon'ble High Court of Madras vide its order dated 23-09-2019 in W.P. No.28072 of 2019 & WP No.27691 of 2019 relying upon the judgement in the case of P. Ayyamperumal, granted one notional increment which was due on 01-07-2019 to the petitioner who retired on 30-06-2019 as the petitioner completed on full year of service as on 30-06-2019.

(v) In the case of Gajendra Kumar & Others Vs The State of Madhya Pradesh, the Hon'ble High Court of Madhya Pradesh at Indore, vide its order dated 17-12-2019 in WP No. 17847/2019 relying upon the judgement in the case of P. Ayyamperumal and in the case of Rajendra Prasad Tiwari granted one notional increment which was due on 01-07-2013 to the petitioner who retired on 30-06-2013 as the petitioner completed on full year of service as on 30-06-2013.

5. I would like to submit that the facts of my case fall squarely within the ***ratio decidendi*** mentioned in the judgements above. Hence, I request you to kindly revise my pay as on xxxxxx from Rs.xxxx to Rs.xxxx by granting me one notional increment falling due on xxxxxxxx. Consequently, I request you to kindly:

- (a) Refix my pension as on xxxxx and I may be paid arrears of pension from xxxx till date
- (b) Recompute my commutation of pension and pay me the difference.
- (c) Recalculate my leave encashment and pay me the difference.

Thanking you,

Yours faithfully

(xxxxxxxxxxx)

Encl: 1. Copy of PPO

2. Copies of judgements as mentioned above

Copy to :

- 1. The Chief Commissioner of Income-tax, xxx
- 2. The Pr. Chief Commissioner of Income-tax, 10th Floor, I.T. Towers, AC Guards, Hyderabad with a request to kindly issue suitable instructions to grant notional increment as requested in line with the judicial pronouncements cited above.
- 3. The President, Income Tax Pensioners Association with a request to take up the matter with the authorities at the appropriate level for issue of necessary instructions.