



2024:UHC:10098-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI G. NARENDAR
AND
HON'BLE SRI JUSTICE MANOJ KUMAR TIWARI

31ST DECEMBER, 2024

Writ Petition (S/ B) No.779 OF 2024

Puran Chandra Awasthi. ..Petitioner

Versus

State of Uttarakhand & others. ..Respondents

Counsel for the petitioner : Mr. B.D. Upadhyaya, Senior Advocate,
assisted by Mr. Tushar Upadhyaya,
learned counsel.

Counsel for the respondents : Mr. P.C. Bisht, Additional C.S.C. and
Mr. Naveen Tewari, Brief Holder for the
State of Uttarakhand.

JUDGMENT : (per Sri Manoj Kumar Tiwari, J.)

Petitioner has challenged the order dated 07.11.2024 passed by Chief Education Officer, Pithoragarh, whereby his claim for annual increment has been rejected on the ground that annual increment was payable to him on 1st July, 2018, but he retired one day earlier.

2. The facts, on which there is no dispute, are that petitioner was appointed as Junior Clerk in Education Department, on 07.11.1977 and he retired from the post of Chief Administrative Officer, upon attaining the age of superannuation, on 30.06.2018.



3. According to petitioner, one annual increment was payable to him, on 01.07.2018, which was not paid to him, therefore, he made a representation to Competent Authority to grant benefit of increment to him. He has been held to be ineligible for increment by the impugned order dated 07.11.2024.

4. Hon'ble Supreme Court in the case of "Director (Administration and Human Resources) KPTCL & others Vs. C.P. Mundinamani & others", reported in (2023) 14 SCC 411, while dealing with the identical issue, approved the judgment rendered by Allahabad High Court in the case of "Nand Vijay Singh & others Vs. Union of India & others" and held that annual increment, which a Government Servant has earned for the services rendered over a year subject to his good behavior, cannot be denied to him. Relevant extract of the said judgment is reproduced below:

"15. Now so far as the submission on behalf of the appellants that the annual increment is in the form of incentive and to encourage an employee to perform well and therefore, once he is not in service, there is no question of grant of annual increment is concerned, the aforesaid has no substance. In a given case, it may happen that the employee earns the increment three days before his date of superannuation and therefore, even according to Regulation 40(1) increment is accrued on the next day in that case also such an employee would not have one-year service thereafter. It is to be noted that increment is earned on one-year past service rendered in a timescale. Therefore, the aforesaid submission is not to be accepted.

16. Now, so far as the submission on behalf of the appellants that as the increment has accrued on the next day on which it is earned and therefore, even in a case where an employee has earned the increment one day prior to his retirement but he is not in service the day on which the increment is accrued is concerned, while considering the aforesaid issue, the object and purpose of grant of annual increment is required to be considered.

17. A government servant is granted the annual increment on the basis of his good conduct while rendering one-year service. Increments are given annually to officers with good conduct unless such increments are withheld as a measure of punishment or linked with efficiency. Therefore, the increment is earned for rendering service with good conduct in a year/specified period. Therefore, the moment a government servant has rendered service for a specified



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period with good conduct, in a timescale, he is entitled to the annual increment and it can be said that he has earned the annual increment for rendering the specified period of service with good conduct. Therefore, as such, he is entitled to the benefit of the annual increment on the eventuality of having served for a specified period (one year) with good conduct efficiently. Merely because the government servant has retired on the very next day, how can he be denied the annual increment which he has earned and/or is entitled to for rendering the service with good conduct and efficiency in the preceding one year.

18. In Gopal Singh [Gopal Singh v. Union of India, 2020 SCC OnLine Del 2640] (sic Nand Vijay Singh [Nand Vijay Singh v. Union of India, 2021 SCC OnLine All 1090]) in paras 20, 23 and 24, the Delhi (sic Allahabad) High Court has observed and held as under : (Nand Vijay Singh case [Nand Vijay Singh v. Union of India, 2021 SCC OnLine All 1090] , SCC OnLine All)

“20. Payment of salary and increment to a central government servant is regulated by the provisions of F.R., CSR and Central Civil Services (Pension) Rules. Pay defined in F.R. 9(21) means the amount drawn monthly by a central government servant and includes the increment. A plain composite reading of applicable provisions leaves no ambiguity that annual increment is given to a government servant to enable him to discharge duties of the post and that pay and allowances are also attached to the post. Article 43 of the CSR defines progressive appointment to mean an appointment wherein the pay is progressive, subject to good behaviour of an officer. It connotes that pay rises, by periodical increments from a minimum to a maximum. The increment in case of progressive appointment is specified in Article 151 of the CSR to mean that increment accrues from the date following that on which it is earned. The scheme, taken cumulatively, clearly suggests that appointment of a central government servant is a progressive appointment and periodical increment in pay from a minimum to maximum is part of the pay structure. Article 151 of CSR contemplates that increment accrues from the day following which it is earned. This increment is not a matter of course but is dependent upon good conduct of the central government servant. It is, therefore, apparent that central government employee earns increment on the basis of his good conduct for specified period i.e. a year in case of annual increment. Increment in pay is thus an integral part of progressive appointment and accrues from the day following which it is earned.

* * *

23. Annual increment though is attached to the post & becomes payable on a day following which it is earned but the day on which increment accrues or becomes payable is not conclusive or determinative. In the statutory scheme governing progressive appointment increment becomes due for the services rendered over a year by the government servant subject to his good behaviour. The pay of a central government servant rises, by periodical increments, from a minimum to the maximum in the prescribed scale. The entitlement to receive increment therefore crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day.



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24. ... In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. The central government servant retiring on 30th June has already completed a year of service and the increment has been earned provided his conduct was good. It would thus be wholly arbitrary if the increment earned by the central government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable. In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable loses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that it offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates right in the central government servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remain protected and are not denied due to a fortuitous circumstance.”

19. The Allahabad High Court in Nand Vijay Singh [Nand Vijay Singh v. Union of India, 2021 SCC OnLine All 1090] while dealing with the same issue has observed and held in para 24 as under : (SCC OnLine All)

“24. Law is settled that where entitlement to receive a benefit crystallises in law its denial would be arbitrary unless it is for a valid reason. The only reason for denying benefit of increment, culled out from the scheme is that the central government servant is not holding the post on the day when the increment becomes payable. This cannot be a valid ground for denying increment since the day following the date on which increment is earned only serves the purpose of ensuring completion of a year's service with good conduct and no other purpose can be culled out for it. The concept of day following which the increment is earned has otherwise no purpose to achieve. In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. The central government servant retiring on 30th June has already completed a year of service and the increment has been earned provided his conduct was good. It would thus be wholly arbitrary if the increment earned by the central government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable. In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable loses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that it offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation



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so as to frustrate the other part particularly when the other part creates right in the central government servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remains protected and are not denied due to a fortuitous circumstance.”

20. Similar view has also been expressed by different High Courts, namely, the Gujarat [State of Gujarat v. Takhsinh Udesinh Songara, 2022 SCC OnLine Guj 2522] High Court, the Madhya Pradesh [Yogendra Singh Bhaduria v. State of M.P., 2020 SCC OnLine MP 4654] High Court, the Orissa [Arun Kumar Biswal v. State of Odisha, 2021 SCC OnLine Ori 2368] High Court and the Madras [P. Ayyamperumal v. Central Administrative Tribunal, 2017 SCC OnLine Mad 37963] High Court. As observed hereinabove, to interpret Regulation 40(1) of the Regulations in the manner in which the appellants have understood and/or interpreted would lead to arbitrariness and denying a government servant the benefit of annual increment which he has already earned while rendering specified period of service with good conduct and efficiency in the last preceding year. It would be punishing a person for no fault of him. As observed hereinabove, the increment can be withheld only by way of punishment or he has not performed the duty efficiently. Any interpretation which would lead to arbitrariness and/or unreasonableness should be avoided. If the interpretation as suggested on behalf of the appellants and the view [Principal Accountant-General, A.P. v. C. Subba Rao, 2005 SCC OnLine AP 47] taken by the Full Bench of the Andhra Pradesh High Court is accepted, in that case it would tantamount to denying a government servant the annual increment which he has earned for the services he has rendered over a year subject to his good behaviour. The entitlement to receive increment therefore crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day.

21. In the present case the word “accrue” should be understood liberally and would mean payable on the succeeding day. Any contrary view would lead to arbitrariness and unreasonableness and denying a government servant legitimate one annual increment though he is entitled to for rendering the services over a year with good behaviour and efficiently and therefore, such a narrow interpretation should be avoided.

22. We are in complete agreement with the view taken by the Madras High Court in P. Ayyamperumal [P. Ayyamperumal v. Central Administrative Tribunal, 2017 SCC OnLine Mad 37963] ; the Delhi High Court in Gopal Singh [Gopal Singh v. Union of India, 2020 SCC OnLine Del 2640] ; the Allahabad High Court in Nand Vijay Singh [Nand Vijay Singh v. Union of India, 2021 SCC OnLine All 1090] ; the Madhya Pradesh High Court in Yogendra Singh Bhaduria [Yogendra Singh Bhaduria v. State of M.P., 2020 SCC OnLine MP 4654] ; the Orissa High Court in Arun Kumar Biswal [Arun Kumar Biswal v. State of Odisha, 2021 SCC OnLine Ori 2368] ; and the Gujarat High Court in Takhsinh Udesinh Songara [State of Gujarat v. Takhsinh Udesinh Songara, 2022 SCC OnLine Guj 2522] . We do not approve the contrary view taken by the Full Bench of the Andhra Pradesh High Court in Principal Accountant-General, A.P. [Principal Accountant-General, A.P. v. C. Subba Rao, 2005 SCC OnLine AP 47] and the decisions of the Kerala High Court in Union of India v. Pavithran K. [Union of India v. Pavithran K., 2022 SCC OnLine Ker 5922] and the Himachal Pradesh High Court in Hari Prakash v. State of H.P. [Hari Prakash v. State



5. From perusal of the aforesaid judgment, it is apparent that increment is a benefit earned by a Government servant for rendering unblemished service for a specified period and the moment a Government servant has completed unblemished service for the period specified under the Rules/Executive Instructions, in a time scale, he is entitled to the benefit of annual increment. Thus annual increment is earned by a Government servant by rendering unblemished service for a specified period, therefore, benefit of annual increment cannot be denied to him on the ground that the said benefit was payable one day after his retirement. In the case of employees of Uttarakhand Government, increment is payable after completing unblemished service for one year; petitioner completed one year service on 30.06.2018 and the benefit of such service was to be given on 01.07.2018. Denial of benefit of increment to him, merely because he retired on 01.07.2018, would thus be unjust and arbitrary. He earned the right to get annual increment by rendering unblemished service between 01.07.2017 to 30.06.2018 and his right to get increment got crystallized upon rendering continuous unblemished service between 01.07.2017 to 30.06.2018. Thus, the fact that petitioner was no more in service on 01.07.2018 will make no difference and in view of the law declared by Hon'ble Apex Court, the right which accrued to the petitioner on 30.06.2018 upon completing one year unblemished service, cannot be denied to him. Thus, the ground on which petitioner's claim for increment was rejected is contrary to the law



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of the land. Rule 56 of the Fundamental Rules, referred in the impugned order does not help the case of the respondent, as it merely provides that a Government Servant shall retire from service on the afternoon of the last day of the month in which he attains the age of 60 years. Thus, the reason assigned for rejecting petitioner's claim for annual increment, is unsustainable in the eyes of law.

6. In such view of the matter, the writ petition is allowed and the impugned order dated 07.11.2024 is quashed. The respondents are directed to give benefit of annual increment, which was payable to petitioner on 01.07.2018.

G. NARENDAR, C. J.

MANOJ KUMAR TIWARI, J.

Dt: 31.12.2024

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