

HIGH COURT OF TRIPURA
AGARTALA
W.A. 54/2025

1. The State of Tripura, represented by the Commissioner & Secretary to the GA(P&T) Department, Government of Tripura, New Secretariat Complex, Gurkhabasti, Agartala PO: Kunjaban, P.S. New Capital Complex, Sub-Division-Sadar, District- West Tripura.

2. The Commissioner & Secretary, Finance Department, Government of Tripura, New Secretariat Complex, Gurkhabasti, Agartala PO: Kunjaban, P.S. New Capital Complex, Sub-Division-Sadar, District- West Tripura.

3. The Deputy Secretary, Finance Department (Establishment Section), Government of Tripura, New Secretariat Complex, Gurkhabasti, Agartala PO: Kunjaban, P.S. New Capital Complex, Sub-Division-Sadar, District- West Tripura.

4. The Under Secretary, Finance Department, Government of Tripura, New Secretariat Complex, Gurkhabasti, Agartala PO: Kunjaban, P.S. New Capital Complex, Sub-Division-Sadar, District- West Tripura.

----Appellants/Petitioners (Respondent Nos. 1 to 4 in writ petition)

Versus

Sri Santanu Debbarma, son of late Manmohan Debbarma, resident of Sankar Chowmuhani, Krishnanagar, P.O. Agartala-799001, P.S. West Agartala, District-West Tripura.

----Respondent (Petitioner in writ petition)

For the Appellant(s)	:	Mr. SM Chakraborty, Advocate General Mr. D. Sarma, Additional GA
For the Respondent(s)	:	Mr. P. Roy Barman, Sr. Advocate Mr. K. Chakraborty, Advocate

Date of hearing and delivery:

of Judgment & Order : **07.04.2026**

Whether fit for reporting : **Yes**

BEFORE
HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (ORAL)

(Dr.T.Amarnath Goud, J)

Heard Mr. SM Chakraborty, learned Advocate General
assisted by Mr. D. Sarma, learned Additional GA appearing for

the appellants. Also heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. K. Chakraborty, learned Counsel appearing for the respondent.

2. By means of filing this writ appeal, the appellants herein, challenged the judgment and order dated 18.12.2024 passed by a Single Judge of this High Court in WP(C) 739 of 2023.

3. Shortly stated, the original writ petitioner, the respondent herein, served under the respondents in the capacity of Additional Secretary, Tripura Civil Service (Senior Selection Grade) and on attaining superannuation, the petitioner i.e. the respondent herein, retired from his service on 30.06.2019. According to the petitioner, as per Rule 11 of the Tripura State Civil Services (Revised Pay) Rules, 2009, all the Government employees are entitled to receive their respective yearly annual increments on the uniform date of 1st July, every year and accordingly, the petitioner used to get his yearly annual increment on the 1st day of July of every year, but on promulgation of Tripura State Civil Services (Revised Pay) Rules, 2017, vide Rule 11 thereof, as the said rule was modified, the petitioner received his yearly annual increment upto 01.07.2018 and the same was his last increment, as granted by the respondents though the petitioner retired from service on 30.06.2019. It was further submitted that having served for the period with effect from 01.07.2018 to 30.06.2019, the petitioner

was duly entitled to receive his yearly annual increment for the said period, but the respondents did not grant the same to the petitioner and as a result of which, the pensionary benefits and monthly pension of the petitioner were settled and paid, excluding the said last unpaid increment. The petitioner being aggrieved submitted a representation requesting the Joint Secretary, GA (P&T) Department, Government of Tripura, to release his said yearly annual increment for his service rendered with effect from 01.07.2018 to 30.06.2019, but the same was regretted by the respondents vide letter dated 20.03.2021 on the ground that he was not on duty on the 1st day of July, 2019. Thereafter, the petitioner filed a writ petition vide No. WP(C) No.316 of 2021 before this High Court and this High Court by a judgment and order dated 13.12.2021 disposed of the said writ petition directing the respondents to take up exercise whether the yearly increment can be released one day before the day on considering completion of one year of service as required. Thereafter, the Under Secretary, Department of Finance, Government of Tripura issued an office Order dated 11.04.2022 whereby the claim of the petitioner was disallowed. Thereafter, in consonance with several judgments rendered by the Hon'ble Supreme Court of India, the petitioner again filed a writ petition before this Court with a prayer for releasing the unpaid annual increment in his favour and the same was registered and marked as WP(C)739 of 2023. This High Court vide Order dated

18.12.2024 allowed the writ petition filed by the original petitioner with a direction to give one notional increment for the period from 01.07.2018 to 30.06.2019 as the petitioner has completed one full year of service though his increment fell due on 01.07.2019 i.e. next day of his retirement. Hence, this appeal preferred by the appellants i.e. the State-respondents of the writ petition. For convenience, operative part of the judgment and order dated 18.12.2024 is reproduced hereunder:

“19. From the principles of law laid down by the Hon’ble Apex Court, it appears that 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 the 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. The moment a Government servant rendered service for a specified period with good conduct in a time scale 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 and therefore, as such, he is entitled to the benefit of annual increment on the eventuality of having served for a specific period of one year with good conduct efficiently. In such a situation, there was no scope to deny the annual increment which the employee/servant earned/is entitled to for rendering the service with good conduct and efficiently.

20. Here in the given case, there is no evidence on record that there was any adverse remark/misconduct by the petitioner during the period the petitioner served in the department. Situated thus, taking the plea by the State-respondents that the said principle of law laid down by the Hon’ble Apex Court cannot be applied in the present case on the ground that the facts of that case are not similarly situated with the facts of the present case and any contrary view would lead to the arbitrariness and denying a Government servant his legitimate right of annual increment which the employees entitled for rendering in the services over a year with good behavior and efficiency. Thus, from the facts and circumstances of the present case, it appears that the State-respondent authority without any basis rejected the claim of the petitioner stating that on 01.07.2019 he was not on duty and as such, the stand taken by the state-respondent that the present petitioner is not entitled to any annual increment which he earned for serving the period with effect from 01.07.2018 to 30.06.2019 cannot be legally sustained.

21. In the result, the writ petition filed by the present petitioner is hereby allowed. The memorandum dated 20.09.2021 and subsequent communication dated 11.04.2022 (Annexures-2 & 4) accordingly stands set aside. The petitioner shall be given one notional increment for the period from 01.07.2018 to 30.06.2019 as he has completed one full year of service though his increment fell due on 01.07.2019 i.e. on the next day of his retirement, for the purpose of pensionary benefits only. But considering the facts and circumstances of the case, no order is passed as to costs. With this observation, this writ petition is thus allowed.”

4. Mr. SM Chakraborty, learned Advocate General for the appellants has submitted that the respondent is not entitled to get the notional increment for the period from 01.07.2018 to 30.06.2019 since on 01.07.2019 i.e. next day he went on superannuation. Learned Advocate General has contended that

as per ROP Rules, 2017, a person appointed as government servant is entitled to pay and draw the annual increment as long as he discharge his duties to the said post, but he shall not be entitled to draw the pay and increment on the date after his retirement. Learned Advocate General has further contended that as per FR 17 read with FR 24 and 26, the respondent ceases his right to draw such increment. During the course of argument, learned Advocate General has placed reliance on Memo dated 23.06.2025 which is with reference to an order dated 11.04.2023 passed by the Hon'ble Supreme Court in Civil Appeal no. 2471 of 2023 [SLP(C) No. 6185/2020] and interim Order dated 06.09.2024, fixing a cut-off date as on 01.05.2023. Learned Advocate General has also submitted that in view of the Memo dated 23.06.2025, the respondent ceases his right to claim the notional increment period from 01.07.2018 to 30.06.2019, and thereby urged to allow the appeal.

5. Per contra, learned senior counsel appearing on behalf of the respondent submits that the petitioner has retired from his service on 30.06.2019 and as per Rule 11 of Tripura State Civil Service (Revised Pay) Rules, 2009, he is entitled to receive the yearly annual increment for his service rendered with effect from 01.07.2018 to 30.06.2019 i.e. service rendered for the previous year. Learned senior counsel has further submitted that the petitioner is not governed under the Memo dated 23.06.2025 since he has retired from his service in the year 2019. Learned

senior counsel has further submitted that the appellants on the issue-in-question had preferred Review Petition before the Hon'ble Supreme Court by the same was dismissed vide Order dated 18.1.2024. Learned senior counsel has further submitted that the appeal be dismissed with a direction to the appellants to grant one notional annual increment for the period w.e.f. 01.07.2018 to 30.06.2019, the period for which the respondent has rendered his service.

6. We have given our thoughtful consideration to the submissions advanced at bar and have carefully gone through the materials available on record.

7. It is not in dispute that the respondent went on superannuation on 30.06.2019 and he claimed for one increment for the previous year i.e. 01.07.2018 to 30.06.2019, the period on which he rendered his service, but the moot question is as to whether *the original petitioner, who retired on the last working day of month and his date of release of increment falls on the next working day, in the next month i.e. on the following day of his retirement, is entitled to get the benefit of the said increment for purpose of determining his pension and other retiral benefits or whether the petitioner, the respondent herein, will be entitled to get the notional benefits for purpose of determining the last pay on the previous day to the due date of release of increment.* The issue has been dealt with by a learned Single Judge of this Court in **WP(C) 315 of 2021 and WP(C) 316 of 2021** [Korak

Baran Chowdhury vs. State of Tripura and Santanu Debbarma vs, State of Tripura]; wherein learned Single Judge placing reliance on a decision of Madras High Court in ***P.Ayyamperumal vs. The Registrar, Central Administrative Tribunal and ors.*** [judgment dated 15.09.2019 in WP No. 15732 of 2017] and a decision of Delhi High Court in ***Gopal Singh vs. Union of India and ors.*** [judgment dated 23.01.2020 in WP(C) No. 10509 of 2019] was of the opinion that the original writ petition can be original respondents can provide for preponing of the release of increment if the incumbent completes one year of service without blemish and left the decision on the wisdom of the original respondents.

For better appreciation, relevant paragraphs of the said judgment are reproduced here-in-below:

“5. Mr. C.S. Sinha, learned counsel appearing for the petitioner has referred to a Division Bench decision of the Madras High Court in P. Ayyamperumal versus The Registrar, Central Administrative Tribunal and Others [judgment dated 15.09.2017 delivered in W.P.No.15732 of 2017] [Annexure-3 to the writ petition] where while dealing with identical fact and challenge Madras High Court has inter alia observed as follows :

“7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose.”

6. Mr. Sinha, learned counsel appearing for the petitioner has also placed his further reliance on a Delhi High Court judgment which has been passed based on Madras High Court decision in P. Ayyamperumal(supra). In Gopal Singh versus Union of India and Others [judgment dated 23.01.2020 delivered in WP(C)No.10509 of 2019], the Delhi High Court has observed that the contention of the Central Government that the judgment of P. Ayyamperumal(supra) is a judgment in personen and has not expounded any law. Delhi High Court having quoted the observation in P. Ayyamperumal(supra) has further observed that no reason would pursue the Court from denying the same relief to the petitioner. Accordingly, Delhi High Court issued direction upon the respondents to grant notional increment to the petitioner w.e.f.01.07.2019. Delhi High Court has further directed to re-fix the pension within the stipulated period.

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11. Mr. C.S. Sinha, learned counsel appearing for the petitioner and Mr. H. Sarkar, learned counsel appearing for the respondents have replicated their submissions in the other case for obvious reason. In WP(C)No.316 of 2021, the petitioner [Shri Santanu Debbarma, Retired TCS(SSG)] who had been working as the Additional Secretary being borne in TCS [super selection grade] had retired from the service on 30.06.2017. In his case also the annual increment was due on 01.07.2018. On consideration of his service from 01.07.2018 to 30.06.2019 the increment was due on 01.07.2019. But the benefit of the said increment was not granted to the petitioner while determining his last pay on 30.06.2019. The petitioner in WP(C)No.316 of 2021 has also

made the representation to the competent authority on 08.12.2020 [Annexure-1 to the writ petition] and in response thereof, the Finance Department by their letter under No.F.5(28)-Fin(E)/91 dated 20.03.2021 has stated that the petitioner was only entitled to the yearly increment on 01.07.2019 in terms of the TSCS(ROP)Rules, 2009.

12. The question that is pertinent in the controversy is that whether the increment which falls on the following day of retirement can be preponed and added with the last pay of the employee. According to the Madras High Court and Delhi High Court that can be done. As of now, the law relating to the release of increment or preponement thereof has not been examined by the apex court. It appears from the records as produced by Mr. H. Sarkar, learned counsel that one or two matters are pending before the apex court.

13. Having appreciated the submissions of the learned counsel for the parties and scrutinized the records as produced this Court is of the considered view that increment would be due to the petitioner for their service that they had rendered in the proceeding year. There is no blemish or adverse action against them impounding or withholding that increment. As the petitioners have retired on the last day of June, whether their increment should have been released on 1st day of July, 2019 as per the provisions of Tripura State Civil Services (Revised Pay) Rules, 2009. Whether that can be preponed or not. Both the courts have decided that that can be notionally preponed and that can be added to the last pay for purpose of determining the pension only. But this Court is not persuaded by the said case as the release of increment in the case of the petitioners is operated by the following provisions of Tripura State Civil Services (Revised Pay) Rules, 2009 :

"11. Date of increment in the revised pay structure : (1) In respect of all employees, there shall be a uniform date of annual increment and such date of annual increment shall be the 1st day of July every year."

14. This Court is not aware whether the similar provision was operating in the matters considered by the Madras High Court and the Delhi High Court. That apart, release of increment is for purpose of service in future as well. The Court cannot read down the provisions of the rules as framed under proviso to Article 309 of the Constitution of India inasmuch as only where provisions of a statute of vague and ambiguous and it is not possible to gather the intention of the legislature from the object of the statute, the contest in which the provisions occur and purpose for which it is made the doctrine of reading down can be applied. The State Government is the competent authority to relook into this matter and they in their wisdom can only carve out an exception for the cases similar to the petitioners and provide for preponing of the release of the increment if the incumbents complete one year of service without blemishes.

15. Thus, the respondents are directed to take up this exercise whether the yearly increment can be released one day before the day on considering completion of one year of service as required. The State Government in the Finance Department shall take up such exercise and give their decision taking all relevant considerations including the judgments of the Madras High Court and the Delhi High Court within a period of three months from the date of receiving a copy of this order. The release of the increment and its assimilation with the last pay would depend on such decision."

In a similar situation where the petitioner though completed one year full service on 30.06.2013 but the increment fell due on 01.07.2013 on which date he was not in service, the Madras High Court in **WP No. 15732 of 2017**, directed the respondents to pay one notional increment to the petitioner for rendering his one full year of service. The relevant paragraphs run as follows:

"6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep.by its Secretary to Government, Finance Department and others v. M.Balasubramaniam, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P. No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he

has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

Similar issue was also raised before the Hon’ble Supreme Court wherein the Hon’ble Supreme Court in ***The Director (Admn and HR), KPTCL and ors vs. C.P. Mundinamani & ors***, [Civil appeal No. 2471 of 2023 (@SLP(C) No. 6185/2020)] reported in **2023 SCC Online SC 401**; granted one annual increment to the original writ petition which he earned on the last day of his service for rendering his service in the preceding one year from the date of retirement. The relevant paragraphs of the said are reproduced here-in-below:

“18. 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. 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 period with good conduct, in a time scale, 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 efficiently in the preceding one year. In the case of Gopal Singh (supra) in paragraphs 20, 23 and 24, the Delhi High Court has observed and held as under:-

“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.”

(para 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.”

(para 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 if 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 remains protected and are not denied due to a fortuitous circumstance."

19. The Allahabad High Court in the case of Nand Vijay Singh (supra) while dealing with the same issue has observed and held in paragraph 24 as under:—

"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 if 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 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 High Court, the Madhya Pradesh High Court, the Orissa High Court and the Madras 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 efficiently 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 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. 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. We are in complete agreement with the view taken by the Madras High Court in the case of P. Ayyamperumal (supra); the Delhi High Court in the case of Gopal Singh (supra); the Allahabad High Court in the case of Nand Vijay Singh (supra); the Madhya Pradesh High Court in the case of Yogendra Singh Bhadauria (supra); the Orissa High Court in the case of AFR Arun Kumar Biswal (supra); and the Gujarat High Court in the case of Takhtsinh Udesinh Songara (supra). We do not approve the contrary view taken by the Full Bench of the Andhra Pradesh High Court in the case of Principal Accountant General, Andhra Pradesh (supra) and the decisions of the Kerala High Court in the case of Union of India v. Pavithran (O.P.(CAT) No. 111/2020 decided on 22.11.2022) and the Himachal Pradesh High Court in the case of Hari Prakash v. State of Himachal Pradesh (CWP No. 2503/2016 decided on 06.11.2020).

21. In view of the above and for the reasons stated above, the Division Bench of the High Court has rightly directed the appellants to grant one annual increment which the original writ petitioners earned on the last day of their service for rendering their services preceding one year from the date of retirement with good behaviour and efficiently. We are in complete agreement with the view taken by the Division Bench of the High Court. Under the circumstances, the present appeal deserves to be dismissed and is accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs."

8. It is well settled that the original writ petitioner earned and accrued his increment for rendering his service for one whole year which fell due on or after 30.06.2019 i.e. from 1st July, 2019, onwards he is entitled for claiming his increment, whether he is in service or he has retired, makes no difference and his retirement will not any embargo or refrain him from collecting his increment money for the services he rendered throughout the previous accounting year. There is no restriction in the Fundamental Rules restraining the entitlement of the employee-petitioner to claim his increment on or after 01.07.2018 whether he is in service or not. A welfare State having extracted the services of an employee cannot deprive his employee from his legitimate entitlement of increment for the service he has rendered from 1st July, 2018 to 30th June, 2019.

9. The Memo dated 23.06.2025 as relied by learned Advocate General refers to an order dated 11.04.2023 passed by the Hon'ble Supreme Court in Civil Appeal no. 2471 of 2023 [SLP(C) No. 6185/2020] and interim Order dated 06.09.2024, fixing a cut-off date as on 01.05.2023. On careful examination and verification, it came to light that the said Memo cannot stand to this scrutiny as the relevance given to the said Memo to the Hon'ble Supreme Court in in Civil Appeal no. 2471 of 2023, is only interlocutory application and later, on verification it has been found that the said interlocutory application pertaining to Review petitions stood dismissed by order dated 18.12.2024 on

the ground that the Review petition was filed with delay of 461 days and the delay was not properly explained. In view of the same, the Memo dated 23.06.2025 issued by the State-appellants carries no weightage as it became inoperative and this court express serious concern with regard to the said Memo and further directs the State-appellants that they cannot place any reliance to the said memo in respect of the cases of deciding increment by referring to the cut-off date, as indicated by the Hon'ble Supreme Court.

10. The increment is considered as a vested right earned by an employee through his satisfactory service. It cannot be considered as a reward for future service. Government employees are entitled to their annual increment earned for the preceding one year of service, even if they retire on the very next day it becomes due, which is aptly clarified by the Hon'ble Supreme Court in **C.P. Mundinamani (supra)**. This court is in complete agreement with the view taken by a learned Single Judge of this High Court in **WP(C) 315 of 2021 and WP(C) 316 of 2021**, placing reliance on the decisions of Madras High Court in the case of **P. Ayyamperumal (supra)**; the Delhi High Court in the case of **Gopal Singh (supra)**. Further, as per *FR 24 and 26*, the original writ petitioner is entitled for a notional increment to be drawn after rendering one year service since there is no disciplinary case pending against him. It is irrelevant as to whether the original writ petitioner was on duty or not on

1st July, 2019. Thus, the action of the respondents in rejecting the drawl of increment on 1st July, 2019 is against the statutory Fundamental Rule

11. In view of the above and for the reasons stated above, this court is of the opinion that the learned Single Judge of the High Court in WP(C) 739 of 2023 has rightly directed the appellants to grant one notional increment for the period from 01.07.2018 to 30.06.2019, which the original writ petitioner earned on the last day of his service for rendering his services preceding one year from the date of retirement with good behaviour and efficiently. We are in complete agreement with the view taken by the learned Single Judge of the High Court in its Judgment and Order dated 18.12.2024, and the same stands un-interfered. Under the circumstances, the present appeal deserves to be dismissed and is accordingly dismissed. As a sequel, pending application(s), if any, also stands dismissed.

S.DATTA PURKAYASTHA,J

DR.T. AMARNATH GOUD,J

**SAIKAT
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