IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11309 of 2015

Sri Ram Chandra Ram son of Late Kalicharan Ram resident of village + P.O.- Paura, P.S- Sarai, DIstrict- Vaishali at Hajipur.

.... Petitioner/s

Versus

1. The Union of India through Ministry of Finance, Govt. of India, New Delhi.
2. The Principal Accountant General (A & E), Ranchi, Jharkhand.
3. The Principal Accountant General (A & E), Patna, Bihar.

.... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. K.K. Thakur, Advocate
		Mr. Navjot Yeshu, Advocate
For the Accountant General:		Mr. Madhuresh Prasad, Advocate
For the Union of India	:	Mr. Shyam Bihari Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 12-01-2017

Heard counsel for the petitioner and the counsel for the Accountant General as well as the counsel for the Union of India.

2. Petitioner had moved the Central Administrative Tribunal, Patna Bench, Patna by filing O.A. No. 334 of 2013 for a direction upon the respondent- Accountant General. He superannuated on 30.04.2005. His claim was that in terms of the rule relating to payment of increment, the increment becomes payable after completion of one year of service. Since the petitioner completed one year of service on 30.04.2005, he became eligible for grant of increment for that year even though the increment is payable on 1st of May of that year.

3. The issue was considered by the Tribunal. The Tribunal heard the applicant i.e. the petitioner of the present writ application, took into consideration the date on which the increment becomes due and payable as well as the date of superannuation of the petitioner and a judgment in similar circumstances rendered in the case of **Chief General Manager, Telecom, BSNL and another Vrs. K.J. George and other, reported in (2008) 14 SCC 699**. The relevant paragraph is paragraph 3 of the said decision, which is reproduced hereinbelow:

> "3. As already noticed, they were retired with effect from 16-12-1995 and 3-12-1995 respectively but because of the provision of FR 56 they were allowed to retire on the last date of the month, the grace period of which was granted to them for the purpose of pay and allowances only. Legally, they were retired on 16-12-1995 and 3-12-1995 respectively and, therefore, by no stretch of imagination can it be held that their pensionary benefits can be reckoned from 1-1-1996. The relationship of the employer and employee terminated in the afternoon of 16-12-1995 and 3-12-1995 respectively. In view thereof the orders of the Tribunal and the High Court are accordingly set aside and these two appeals are allowed with no order as to costs."

4. Even in the present case, the present petitioner

should have retired on 02.04.2005 having completed 60 years of age. However, in view of the fundamental rule, he was allowed to continue till the end of the month. Therefore, even otherwise he had retired much before completion of one year of service, which could entitle him for benefit of the increment for that year.

5. Since the date of payment of increment is fixed and on the date on which it becomes payable, petitioner was not on rolls of the Department, having superannuated, such increment will not accrue in favour of the employee and this is what the Tribunal has held keeping in mind the observation of the Hon'ble Apex Court as well. The O.A. was rightly dismissed so is the writ application. However, cost of Rs. 5,000/-, which was imposed for moving the Tribunal on time barred application after a long long time, is set aside. The writ application is otherwise dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

Arjun/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.01.2017
Transmission Date	NA