

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

W.P.No.23095 of 2017

V.Sampangi Ramaiah

.. Petitioner

Vs

1.The Union of India rep. by the
Commissioner of Income Tax,
Gandhi Road, Salem - 7.

2.The Administrative Officer,
Grade III,
O/o.The Commissioner of Income
Tax, Salem - 7.

3.The Registrar,
Central Administrative Tribunal,
Chennai Bench, Chennai - 104.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order of the third respondent in M.A./310/00353/2016 in OA/310/00712/2017 dated 20.04.2017 and the order of the second respondent C.No.9032/CIT/2013-14/SLM dated 12.12.2013 and quash the said orders and consequently direct the respondents 1 and 2 to grant annual increment for the petitioner on 01.07.2013 and accordingly revise his pension and other retirement benefits on that basis and grant him all consequential benefits.

For Petitioner .. Mr.P.Mohanraj
For Respondents.. Mr.M.T.Arunan for R1 & R2
R3 - Tribunal

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner, who retired as Administrative Officer after attaining the age of superannuation, made a request for the payment of last increment, which was accordingly rejected, placing reliance upon Rule 10 of the CCS (RP) Rules, 2008 on the

ground that the eligibility would come only when the Government Servant is in service as on 1st July of every year whereas the petitioner has reached the age of superannuation on 30.06.2013. The Tribunal, accepting the earlier order passed, dismissed the Original Application and hence the present writ petition.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for respondents 1 and 2.

3. As rightly submitted by the learned counsel appearing for the petitioner, the issue is no longer res integra. A Division Bench of this Court in W.P.No.15732 of 2017 dated 15.09.2017, taking into consideration the earlier order of the Division Bench, which has become final as against the respondents by observing that the special leave petition filed against the said order was dismissed on 08.07.2013, was pleased to allow the writ petition. The following paragraphs would be apposite:

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.

4.It is also submitted that as against the judgment supra, once again, the respondents approached the Apex Court and it was again dismissed.

5.In such view of the matter, we are inclined to allow this writ petition. Accordingly, the impugned order dated 20.04.2017 passed by the Tribunal stands set aside so is the impugned order dated 12.12.2013 passed by the second respondent. Consequently, it is held that the petitioner is entitled for increment as of now. Respondents 1 and 2 are directed to do the needful within a period of twelve weeks from the date of receipt of a copy of this order.

6.The writ petition is allowed on the above terms. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1. The Registrar,
Central Administrative Tribunal,
Chennai Bench, Chennai - 104.

2.The Commissioner of Income Tax,
Union of India
Gandhi Road, Salem - 7.

3.The Administrative Officer,
Grade III,
O/o.The Commissioner of Income
Tax, Salem - 7.

+1 CC to Mr.P.Rajendran, Advocate sr 82762.

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VSNII(CO)
SP(03/01/2019)