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W.P.No.288/2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 19-04-2023

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No.288 of 2020

V.Dayalan

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Petitioner

-VS-

1.The Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
VI Floor, Moore Market Complex,
Park Town,
Chennai-600 003.

2.The General Manager,
Southern Railway,
NGO/MAS-600 003,
VI Floor, Moore Market Complex,
Park Town,
Chennai-600 003.

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Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus directing the first respondent to consider and pass orders on the petitioner's representation, dated 18.11.2019, seeking One Annual Increment and sanction of Revision of Pension, within a time frame to be fixed by this Court.

For Petitioner : Mrs.D.Geetha

For Respondents : Mr.P.T.Ram Kumar,
Standing Counsel.

**ORDER****WEB COPY**

This Writ Petition has been filed seeking a writ of mandamus, directing the first respondent to consider and pass orders on the representation, dated 18.11.2019, submitted by the petitioner, seeking one annual increment and sanction of revision of pension within a time frame to be fixed by this Court.

2. The case of the petitioner is that he joined the service of the Railway Protection Force-RPF on 15.09.1970 as RPF Constable. He had served the Force for about 40 years. He retired from service as ASIPF on attaining the age of superannuation i.e., on 30.06.2010. He was lastly granted his annual increment on 01.07.2009 during his service. After completion of one more year of service from 01.07.2009 to 30.06.2010, he retired on 30.06.2010, but, no annual increment was granted to him for having served and completed one more year of service from 01.07.2009 to 30.06.2010. He sent a representation, dated 20.01.2015, to the respondents. Based on the said representation, the first respondent had sent a communication, dated 10.02.2015, to the FA&CAO/Pension/MAS's office, seeking clarification on the request of the petitioner. The said communication was served to the petitioner by the first respondent. There was no further communication from the respondents on the request of the petitioner. Aggrieved by the same, the present Writ Petition has been filed.



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3. No counter affidavit has been filed on behalf of the respondents.

4. Heard Mrs.D.Geetha, learned counsel for the petitioner, and Mr.P.T.Ram Kumar, learned Standing Counsel for the respondents, and also perused the material available on record.

5. Learned counsel for the petitioner submits that the petitioner is aged about 69 years and solely dependent on the pension given to him for 40 years of sincere service to the respondent Railway Protection Force. If the petitioner is given one year increment, it will enhance his pension and it will be helpful to him to lead a peaceful and contented life. She also submits that Rule 10 of the Railway Service (Revised Pay) Rules,2008, which governs the grant of increment, provides that there will be a uniform date of annual increment i.e., 01st July of every year, and that employees completing six months and above in the revised pay structure as on 01st July will be eligible to be granted increment. As such, the learned counsel contends that the petitioner is entitled to be granted an increment according to the said Rule. She further contends that the first respondent is bound by the Rules and, according to the said Rules, the petitioner is entitled to one increment. Since the petitioner did not receive any response from the respondents, the petitioner made further representations to them on 25.10.2019 and 18.11.2019 respectively, but, there is no response or communication from the respondents and, as such, the petitioner is constrained to approach this Court by filing the present Writ Petition.



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6. Learned counsel for the petitioner relied on a Division Bench order of the Madras High Court in the case of P.Ayyamperumal v. The Registrar, Central Administrative Tribunal, and Others, reported in CDJ 2017 MHC 6274, and also a judgment of the Hon'ble Apex Court in the case of The Director (Admn.and HR), KPTCL & Others v. C.P.Mundinamani & Others, reported in 2023 SCC Online (SC) 401.

7. Learned Standing Counsel for the respondents submits that as the representation of the petitioner is pending with the respondents, it will be considered as per the orders of this Court within the time to be stipulated by this Court in terms of the judgments relied upon by the learned counsel for the petitioner.

8. Having heard the submissions of the respective counsels and upon perusal of the material available on record, it appears that the Division Bench of this Court in P.Ayyamperumal's case (supra) applied the judgment passed by this Court in State of Tamil Nadu, rep. By its Secretary to Government, Finance Department, and Others v. M.Balasubramaniam, reported in CDJ 2012 MHC 6525, wherein, it is held 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.



9. While dealing with an identical matter, which arose against the judgment passed by the High Court of Karnataka at Bengaluru, the Apex Court, in The Director (Admn. and HR), cited supra, observed as extracted hereinunder :

"6.7. 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 Takhatsinh 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 Vs. Pavithran (O.P.(CAT) No.111/2020 decided on 22.11.2022) and the Himachal Pradesh High Court in the case of Hari Prakash Vs. State of Himachal Pradesh & Ors. (CWP No. 2503/2016 decided on 06.11.2020)."

10. The Hon'ble Apex Court, while dismissing the said appeal, held as extracted hereinunder:

"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."

11. In the present case also, the petitioner had completed one full year of service as on 30.06.2010 and the increment fell due on 01.07.2010, by which date the petitioner retired from service.

12. In the light of the judgment of the Hon'ble Apex Court in The Director (Admn. and HR) (supra) and the Division Bench judgment of this Court in P.Ayyamperumal (supra), this Court is of the considered opinion that the respondents shall consider the request of the petitioner sought in his representations, dated 20.01.2015, 25.10.2019 and 18.11.2019 respectively, in terms of the judgment of the Hon'ble Apex Court and this Court, stated supra.

13. Accordingly, this Writ Petition is allowed with the following direction :

The first respondent shall consider the representations of the petitioner dated 20.01.2015, 25.10.2019 and 18.11.2019 respectively, in terms of the judgments of the Supreme Court and the Division Bench of this Court (supra) within a period of two weeks from the date of receipt of a copy of this order and communicate the same to the petitioner.



There shall be no order as to costs.

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Index : Yes/No
Internet : Yes/No
Speaking / Non-speaking Order

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(JUSTICE BATTU DEVANAND)
19-04-2023

Note to Office :
Issue Order Copy in two days.

To

1.The Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
VI Floor, Moore Market Complex,
Park Town,
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BATTU DEVANAND,J.

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