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W.P.No.3357 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.3357 of 2020 and
W.M.P.Nos.3900 and 3902 of 2020

S.Manivannan

... Petitioner

Vs.

1.The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai 600 001.

2.The Chief Mechanical Engineer,
Chennai Port Trust,
Rajaji Salai, Chennai 600 001.

3.The Financial Advisor &
Chief Accounts Officer (FA & CA),
Chennai Port Trust,
Rajaji Salai, Chennai 600 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 15.05.2019 Ref.No.CME/A3/1701/2018/MEE passed by the 2nd respondent authority and quash the same and consequently, direct the respondent authorities to grant one increment to the petitioner for the completed year



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of service from 01.07.2018 to 30.06.2019 and fix the retiral benefits of the petitioner in accordance with wage revision effected from 01.01.2017, within a time frame to be fixed by this Court.

For Petitioner : Mr.Thanka Sivan.S
For Respondents : Mr.R.Karthikeyan

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 15.05.2019 Ref.No.CME/A3/1701/2018/MEE passed by the 2nd respondent authority and quash the same and consequently, direct the respondent authorities to grant one increment to the petitioner for the completed years of service from 01.07.2018 to 30.06.2019 and fix the retirement benefits of the petitioner in accordance with wage revision effected from 01.01.2017, within a time frame to be fixed by this Court.

2. Heard Mr.Thanka Sivan.S, learned counsel for the petitioner and Mr.R.Karthikeyan, learned Standing Counsel appearing for the respondents.



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3. The petitioner got retired on 30.06.2019 and his increment fell on 01.07.2019. Since the petitioner got retired one day before his increment which fell on 01.07.2019, he was not given with the last increment and hence he has filed this Writ Petition.

4. In support of his above contention, the learned counsel for the petitioner relied on the decision of the learned Division Bench of this Court held in W.P.No.15732 of 2017 dated 15.09.2017. In the said case, it is held that the last increment due on 01.07.2013 should be allowed taking into consideration of the completion of one year service from 01.07.2012 to 30.06.2013. The relevant paragraph is extracted hereunder:

"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



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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."

5. The facts of the above case is squarely applicable to the facts of the present case as well. The Special Leave Petition filed challenging the above order was also dismissed.

6. The learned Standing Counsel for the respondents submitted that on the date of the increment due, the petitioner was not in service and he is not eligible to get any increment fell on 01.07.2019.

7. However, the law in this point has been well settled that the increment is given to the employee for every successful completion of one year of service. It is at the convenience of the Government that the increment date is split between January and July of every year.



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Irrespective of the dates during which the increment has to be worked out, what has to be seen is whether the Government Servant has completed one year of service in the scale of pay due to his previous year of his employment. In the case in hand, the petitioner has completed one year of service from 01.07.2018 to 30.06.2019 which is a clear completion of one year. Hence the petitioner ought to have been given with one notional increment on his retirement.

8. The attention of this Court was drawn to the latest judgment of the Hon'ble Supreme Court held in the case of the ***Director (Admn. and HR) KPTCL and others Vs. C.P.Mundinamani and Others, reported in 2023 SCC Online SC 401***; In the said judgment, the position of law has once again re-asserted and made crystal clear. The relevant excerpts are given as hereunder:

"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



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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



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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)."



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9. Since the petitioner is entitled to get one annual increment on his completion of one year service, he is entitled to the next increment which has to be fixed on 01.07.2019.

10. In the result, this Writ Petition is allowed and the order passed by the second respondent in Ref.No.CME/A3/1701/2018/MEE dated 15.05.2019 is quashed and the respondent authorities are directed to grant one increment to the petitioner for a completed one year of service from 01.07.2018 to 30.06.2019 and fix the retirement benefits of the petitioner in accordance with the wage revision with effect from 01.01.2017 and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes
Internet : Yes/No
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R.N.MANJULA, J.

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