IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 11.09.2023
Coram

The Hon'ble Mr.Justice D.Krishnakumar
and
The Hon'ble Mr.Justice P.B.Balaji

W.P.No.20826 of 2019

1. K.Kandasamy
2. K.Rajarajacholan
3. M.Samathuvam
4. R.Kannan ...Petitioners

Vs.

1. The Registrar,
Central Administrative Tribunal,
Chennai Bench, High Court Buildings,
High Court Chennai- 600 104

2. Union of India,
rep. by the Chairman, CBEC,
North Block, New Delhi – 110 001.

3. Union of India,
rep. by Department of Personnel and Training
North Block, New Delhi – 110 001.

4. The Principal Chief Commissioner of Central Tax,
121, Mahatma Gandhi Salai,
Nungambakkam, Chennai – 600 034.

5. The Chief Commissioner of Customs,
(Preventive)
No.1, Williams Road, Cantonment,
Trichy – 620 001.

6. The Commissioner of GST Central Excise,
No.1, Foulks Compound,
Anaimedu, Salem – 636 001.

7. The Commissioner of Customs,
(Preventive)
No.1, Williams Road, Cantonment,
Trichy – 620 001. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for records of the first respondent in O.A.No.170/2019, dated 13.03.2019 and to quash the said orders and consequently, to direct the respondents 2 to 7 to treat the retirement date of the first and second petitioners as on 01.07.2018 and that of the third and fourth petitioners as 01.07.2017 since they had completed one full year of service on the date of their respective retirement on superannuation and to pay them notional increment accrued on that date for pensionary benefits.

For Petitioners	:	Mr.P.Ayyam Perumal
Respondent-1	:	Tribunal
For Respondents-2 & 3	:	Mr.K.Srinivasamurthy
For Respondents 4 -7	:	Mrs.Hema Muralikrishnan Senior Standing Counsel

O R D E R

This Writ Petition is filed seeking to quash the order passed by the Central Administrative Tribunal (for short, the 'Tribunal') whereby, claim of the petitioners to pay notional increment on completion of service was rejected and consequently, to direct the respondents 2 to 7 to grant annual increment to the petitioners and to treat the retirement date of first and second petitioners as on 01.07.2018 and that of the third and fourth petitioners as 01.07.2017 since they had completed one full year of service on the date of their respective retirement on superannuation and to pay them notional increment accrued on that date for pensionary benefits.

2. We have heard Mr.P.Ayyam Perumal, learned counsel appearing for the petitioners, Mr.K.Srinivasamurthy, learned counsel appearing for respondents 2 and 3 and Mrs.Hema Muralikrishnan learned Senior Standing Counsel for respondents 4 to 7.

3. The learned counsels appearing on either side do not dispute the fact that the issue involved in these Writ Petitions is covered by a decision of the Hon'ble Supreme in the case of **Director (Admin. And HR) KPTCL and others Vs. C.P.Mundinamani and others)** reported in **2021 SCC Online SC 401,** wherein, the issue as to whether an employee, who has earned annual increment is entitled to receive same despite the fact that he has retired on the very next day of earning the increment is decided in favour of the employees. For better appreciation, the relevant para of the said decision is extracted hereinbelow:-

> "**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 Takhatsingh Udesingh 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).

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."

4. Further, following the said decision of the Hon'ble Supreme Court, in the above referred case, (viz.in **KPTCL)** this Bench also allowed a Writ Petition involving identical issue in the case of **T.Mani and three others Vs. Union of India rep. By its Director General of Posts and four others) in W.P.No.176 of 2019, dated 05.07.2023.**

5. Thus, in the light of the aforesaid decision of the Honourable Supreme Court, in the case of **KPTCL (cited supra),** we are of the view that the present Writ Petition is also liable to be allowed on the same lines.

6. Accordingly, this Writ Petition is allowed, the impugned order passed by the Tribunal is set aside and consequently, the respondents 2 to 7 are directed to treat the retirement date of first and second petitioners as 01.07.2018 and that of the third and fourth petitioners as 01.07.2017 since they had completed one full year of service on the date of their respective retirement on superannuation and to pay them notional increment accrued on that date for pensionary benefits within a period of four months from the date of receipt of a copy of this order. No costs.

D.K.K.J. P.B.B.J.,
11.09.2023

sd

Index : yes/no
Neutral Citation : Yes/no
Note : Issue order copy on 02.11.2023
B/o sd dt.01.11.2023

To

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