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W.P.No.16030 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.No.16030 of 2019

D.Selvaraju

..

Petitioner

v.

1. Union of India

rep.by the Chief Postmaster General

Tamil Nadu Circle

Anna Salai

Chennai 600 002

2. The Postmaster General

Western Region (TN)

Coimbatore 641 002

3. The Senior Superintendent of Post Offices

Salem East Division

Salem 636 001

4. The Central Administrative Tribunal

Madras Bench rep.by its Registrar

Chennai 600 104

..

Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling the records of 4th respondent pertaining to its order which is made in OA/310/00205/2019 dated 14.03.2019 in so far as the petitioner is concerned and quash the same, consequent to direct the respondents 1 to 3 to grant one increment for the service rendered by the petitioner for the period from 01.07.2017 to 30.06.2018 and further direct to revise and re-fix the retirement service benefits including pension of the petitioner and to pay the arrears of pension to the petitioner.

For Petitioner :: Mr.R.Malaichamy

For Respondents :: Mr.N.Ramesh
Senior Panel Counsel for R1 to R3
R4-Tribunal

ORDER

(Order of the Court was made by D.KRISHNAKUMAR,J.)

The petitioner seeks to quash the order passed by the Central Administrative Tribunal, Chennai Bench in OA/310/00205/2019 dated 14.03.2019 in so far as the petitioner is concerned, with a consequential direction to the respondents 1 to 3 to grant one increment for the service rendered by the petitioner for the period from 01.07.2017 to 30.06.2018 and also to revise and re-fix the retirement service benefits including pension and arrears of pension to the petitioner.



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2. The petitioner, after serving as Lower Selection Grade Postal Assistant at Attur Head Post Office, retired from service on 30.06.2018 on attaining the age of superannuation. When the petitioner made representations dated 02.11.2018 & 20.10.2018 to the respondents 2 & 3 to grant one increment for the service rendered in the preceding year of his retirement from 01.07.2017 to 30.06.2018 and also to re-fix his pension accordingly, the said request came to be rejected by the orders dated 16.11.2018 and 25.10.2018 respectively. The said orders were unsuccessfully challenged before the Central Administrative Tribunal, Chennai Bench, giving rise to the present writ petition.

3. The issue raised in this writ petition is squarely covered by the judgment of the Hon'ble Supreme Court in Civil Appeal No.2471 of 2023 dated 11.04.2023 (The Director (Admn.& HR), KPTCL and others v. C.P.Mundinamani and others), wherein the Hon'ble Supreme Court has held as follows:-

“6.5. Now, so far as the submission on behalf of the appellants that as the increment has accrued on the next



which he has earned and/or is entitled to for rendering the service with good conduct and efficiently in the preceding one year. In the case of Gopal Singh (supra) in paragraphs 20, 23 and 24, the Delhi High Court has observed and held as under: -

(para 20)

“Payment of salary and increment to a central government servant is regulated by the provisions of F.R., CSR and Central Civil Services (Pension) Rules. Pay defined in F.R. 9(21) means the amount drawn monthly by a central government servant and includes the increment. A plain composite reading of applicable provisions leaves no ambiguity that annual increment is given to a government servant to enable him to discharge duties of the post and that pay and allowances are also attached to the post. Article 43 of the CSR defines progressive appointment to mean an appointment wherein the pay is progressive, subject to good behaviour of an officer. It connotes that pay rises, by periodical increments from a minimum to a maximum. The increment in case of progressive appointment is specified in Article 151 of the CSR to mean that increment accrues from the date following that on which it is earned. The scheme, taken cumulatively, clearly suggests that appointment of a central government servant is a progressive appointment and periodical increment in pay from a minimum to maximum is part of the pay structure. Article 151 of CSR contemplates that increment accrues from the day following which it is earned. This



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thus be wholly arbitrary if the increment earned by the central government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable.”

“In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable loses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that it offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates right in the central government servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remains protected and are not denied due to a fortuitous circumstance.”

6.6 The Allahabad High Court in the case of Nand Vijay Singh (supra) while dealing with the same issue has observed and held in paragraph 24 as under: -

“24. Law is settled that where entitlement to receive a benefit crystallises in law its denial would be arbitrary unless it is for a valid reason. The only reason for denying benefit of increment,



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culled out from the scheme is that the central government servant is not holding the post on the day when the increment becomes payable. This cannot be a valid ground for denying increment since the day following the date on which increment is earned only serves the purpose of ensuring completion of a year's service with good conduct and no other purpose can be culled out for it. The concept of day following which the increment is earned has otherwise no purpose to achieve. In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. The central government servant retiring on 30th June has already completed a year of service and the increment has been earned provided his conduct was good. It would thus be wholly arbitrary if the increment earned by the central government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable. In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable loses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that it offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates right in the central government



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servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remains protected and are not denied due to a fortuitous circumstance.”

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 herein above, 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



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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 Takhtsinh 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).

7. 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. Following the decision of the Hon'ble Supreme Court cited supra, we have also, by order dated 05.07.2023, allowed a similar Writ Petition No.176 of 2019 filed by T.Mani and others by directing the respondents therein to grant one increment for the service rendered by them in the preceding year and also to grant them the revised pensionary benefits along with arrears of pension.

5. The learned Senior Panel Counsel appearing for the respondents 1 to 3 also has not controverted the above cited decision rendered by this Court.

6. In the light of the above, even though the petitioner in this case



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attained the age of superannuation on 30.06.2018, he is entitled to the grant of one increment for the service rendered by him in the preceding year before his retirement i.e., for the period from 01.07.2017 to 30.06.2018 with the consequential retirement benefits i.e., re-fixation of his pension and also for payment of arrears of pension. In fine, the order passed by the Central Administrative Tribunal, Chennai Bench as well as the orders passed by the respondents 2 & 3 are set aside and the writ petition stands allowed by directing the respondents 1 to 3 to grant one increment for the service rendered by the petitioner in the preceding year of his retirement and consequently pay the revised pension along with the arrears to the petitioner, within a period of four months from the date of receipt of a copy of this order. There shall be no order as to costs.

(D.K.K.,J.) (P.B.B.,J.)
08.08.2023

Index : yes/no
Neutral citation : yes/no

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