IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

WP No.24936 of 2019

K.Rajendran ... Petitioner

versus

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

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

3.Union of India,
Represented by the Department of Personnel
and Training (DOPT),
North Block,
New Delhi- 110 001.

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

5.The Commissioner of G.S.T.
Central Excise,
No.1, Foulks Compound,
Anaimedu,
Salem - 636 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certioraried Mandamus, to call for the records of the first respondent pertaining to the order in OA No.312/2019 dated 19.03.2019, quashing the same and consequently directing the respondents 2 to 5 to treat the retirement date of the petitioner is on 01.07.2017, she had had completed one full year of service on the date of retirement on superannuation and pay him notional increment accrued on that date for pensionary benefits only.

For the Petitioner :Mr.R.Meenalochini

For the Respondents :Mr.V.Sundareswaran
Senior Standing Counsel
for respondents 2 to 5
first respondent-Tribunal

ORDER

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

Challenging the order dated 19.03.2019, passed by the Tribunal in OA No.312 of 2019, the petitioner has filed the present writ petition before this Court.

2. We have heard Ms.R.Meenalochini, learned counsel for the petitioner and Mr. V.Sundareswaran, learned Senior Standing Counsel for the respondents 2 to 5.

3. It is brought to the notice of this Court that following the decision of the Hon'ble Supreme Court in the case of ***Director (Admin. and Hr) Kptcl and Others vs C.P.Mundinamani and others, reported in 2021 SCC Online SC 401***, this Court in WP No.20826 of 2019 dated 11.09.2023, has passed an order in favour of the employees.

4. The relevant portion of the order dated 11.09.2023 in WP No.20826 of 2019 is extracted hereunder:

> *3.The learned counsels appearing on either side do not dispute the fact the issue involved in these writ petitions is covered by a decision of the Hon'ble Supreme Court 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:-*
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> > *'20 Similar view has also been expressed by different High Courts, namely, the Gujarat High Court, the Madhya Pradesh High Court, the Orissa High curt 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 specific period of service with good conduct and efficiently in the last*

proceding 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. It 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 become 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 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 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 reason stated above, the Divisional 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.*

5. Learned counsel for both parties submit before this Court that the decisions of the Hon'ble Supreme Court cited supra as well as the order of this Court, dated 11.09.2023 passed in WP No.20826 of 2019, squarely apply to the facts of the present case on hand.` Hence, on the same line, orders may be passed in this writ petition.

6. In view of the submissions made by both the parties and following the decisions cited supra, the writ petition is also liable to be allowed. Accordingly, the writ petition is allowed, impugned order dated 19.03.2019 passed by the Tribunal in OA No.312 of 2019, is set aside and consequently,

respondents 2 to 5 are directed to treat the retirement date of the petitioner as 01.07.2017, since he had completed one full year of service on the date of retirement on superannuation and pay him 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. There will be no order as to costs.

[D.K.K., J.] **[N.S., J.]**
24.11.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn

To

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New Delhi-110 001.

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D.KRISHNAKUMAR, J.
and
N.SENTHILKUMAR, J.

(mrn)

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