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W.P. No.28435 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 03.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P. No.28435 of 2023

G.Palanivelu

.. Petitioner

Versus

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Complex,
Chennai 600 105.
2. The Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai,
Chennai 600 002.
3. The Superintendent of Post Office,
Pattukottai Division,
Pattukottai 614 601.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in O.A./310/00460/2023, dated 16.06.2023 and quash



W.P. No.28435 of 2023

the said order and consequently direct the third respondent to grant annual increment to the petitioner.

For petitioner : Mr.P.Ayyamperumal

For respondents

for R1 : Tribunal

for RR2&3 : Mr.S.Diwakar, SPC

ORDER

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

This petition is filed to quash the order of the first respondent in O.A./310/00460/2023, dated 16.06.2023.

2. It is the case of the petitioner that he got superannuated as Postman on 30.06.2013. Though he completed full one year of service on 30.06.2013, he was denied increment stating that he was not in service on 01.07.2013. Therefore, he filed O.A./310/00460/2023 before the Central Administrative Tribunal Chennai Bench, which was dismissed. Aggrieved over the same, the present Writ Petition has been filed.



W.P. No.28435 of 2023

WEB COPY

3. The learned counsel for the petitioner submitted that the issue involved in this petition is squarely covered by the decision of the Hon'ble Supreme Court in the case of ***Director (Admin. and HR) KPTCL and others vs. C.P.Mudinamani 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 the same despite the fact that he retired on the very next day of earning the income, is decided in favour of the employees. The relevant paragraph of the said decision is extracted below:

“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



WEB COPY



W.P. No.28435 of 2023

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



WEB COPY



W.P. No.28435 of 2023

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).

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."



W.P. No.28435 of 2023

WEB COPY

4. Following the said decision of the Hon'ble Supreme Court, this Court also allowed Writ Petitions involving identical issue in the cases of
i) *T.Mani and others vs. Union of India rep. by its Director General of Posts and others* in WP.No.176 of 2019, dated 05.07.2023 and
ii) *N.Penchaliah and other vs. The Registrar, Central Administrative Tribunal*, in WP.No.17116 of 2020 dated 11.09.2023.

5. The learned counsel appearing for the respondents has not controverted the above submissions.

6. In view of the above, we are of the view that this Writ Petition is liable to be allowed on the same lines of the decision of the Hon'ble Supreme Court in the case of *KPTCL (cited supra)*. Therefore, the impugned order passed by the Tribunal is set aside and consequently, the respondents are directed to grant annual increment to the petitioner for the service rendered by him in the preceding year and treat the retirement date of the petitioner as 01.07.2013 and to grant him all consequential benefits



W.P. No.28435 of 2023

including the pensionary benefits within a period of four months from the date of receipt of a copy of this order. Accordingly, this Writ Petition is allowed. No costs.

[D.K.K., J] [P.D.B., J]
03.11.2023

Speaking order: Yes/No
Index : Yes/No
pvs

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