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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CM-19017-CWP-2023 in/and
CWP-2747-2019 (O&M)
Date of decision: 17.11.2023

Dr. Lalita Sharma

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. S.K. Verma, Advocate for the petitioner.

Ms. Palika Monga, D.A.G., Haryana.

VIKAS BAHL, J. (ORAL)

CM-19017-CWP-2023 and CWP-2747-2019

1. This is an application filed under Article 226 of the Constitution of India with a prayer to decide the writ petition in view of the judgment dated 11.04.2023 passed by the Hon'ble Supreme Court in case titled as '*The Director (Admn. and HR) KPTCL & Ors vs. C.P. Mundinamani and others, Civil Appeal No.2471 of 2023 (SLP (C) No.6185 of 2020).*

2. Learned counsel for the applicant-petitioner has submitted that in the main case, challenge was laid to the action/reply (Annexure P-2), in which, the stand of the respondents was that as per the Haryana Service Rules, 2016, in case, any employee retired on the last day of the month or

before, then he/she is not entitled to get any increment which was to be given on the next working day since on the said day, the employee was not on duty and the increment can only be given to the employee when the said employee is working and since the petitioner in the present case retired on 30.06.2016 thus, he is not entitled to the increment to be granted on 01.07.2016.

3. Learned counsel for the applicant-petitioner has submitted that as per the latest judgment of the Hon'ble Supreme Court in ***The Director (Admn. and HR) KPTCL & Ors's*** case (supra), while dealing with a similar proposition, the Hon'ble Supreme Court had granted relief to persons, who are similarly placed as the present applicant-petitioner. It is the argument of the applicant-petitioner that the increment becomes due soon as 12 months of service has been rendered by the applicant and since the applicant-petitioner had rendered the said period of service, the increment could not be denied on the ground that the same is actually to be paid on the next day.

4. Learned counsel for the applicant/petitioner has prayed that the main case be preponed from 20.02.2024 to today and has submitted that the applicant-petitioner in the light of the judgment of the Hon'ble Supreme Court in ***The Director (Admn. and HR) KPTCL & Ors's*** case (supra), would give a detailed representation to the respondent-authorities and the respondent-authorities be directed to consider the said representation keeping in view the law laid down by the Hon'ble Supreme Court in the abovesaid judgment in a time bound manner and in case the pleas raised by the petitioner are found to be meritorious, then necessary relief be granted to the petitioner immediately thereafter.

5. Learned State counsel has submitted that in case any such representation is filed by the petitioner, the respondent authorities would consider the same within a period of six months from the date of the receipt of the said representation. It is stated that all aspects including the judgment of the Hon'ble Supreme Court in ***The Director (Admn. and HR) KPTCL & Ors's*** case (supra), would be considered while taking a final decision.

6. Keeping in view the facts and circumstances of the case, the application bearing No.CM-19017-CWP-2023 is allowed and the date of hearing of the main case is preponed from 20.02.2024 to today itself for final disposal and the main case bearing No.CWP-2747-2019 is disposed of with the following directions:-

- (i) It would be open to the petitioner to move a detailed representation to the respondent-authorities and annex the latest judgment of the Hon'ble Supreme Court in ***The Director (Admn. and HR) KPTCL & Ors's*** case (supra) in the same.
- (ii) The competent-authority of the respondent-State would consider the said representation within a period of six months from the date of receipt of the same in accordance with law and in case the pleas raised by the petitioner are found to be meritorious, then necessary relief be also granted to the petitioner immediately thereafter and in case the pleas of the petitioner are not found to be meritorious, then a speaking order rejecting the same would be passed within a period of six months from the date of submission of the said representation by the petitioner.

(iii) While considering the case of the petitioner, the latest judgment of the Hon'ble Supreme Court in ***The Director (Admn. and HR) KPTCL & Ors's*** case (supra) would be taken into consideration.

7. It is made clear that this Court has not opined on the merits of the case and the competent authority of the respondent-State would consider and decide the case of the petitioner independently, in accordance with law.

8. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

17.11.2023

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No