

CM-4342-CWP-2023
IN CWP-3883-2013

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2023:PHHC:155312

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-4342-CWP-2023
IN CWP-3883-2013
Date of Decision:05.12.2023

SUKHBINDER SINGH UPPAL AND ANR. Petitioners

Versus

STATE OF PUNJAB AND OTHERS Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. A.K. Walia, Advocate
for the petitioners.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)
CM-4342-CWP-2023

Application is allowed and with the consent of both sides,
main case is taken on board for final disposal.

Main Case

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of para 7 of the instructions dated 17.04.2000 (Annexure P-2).
2. The petitioners are retired Deputy Superintendent of Police of State of Punjab. At the time of retirement, the petitioners were officiating Superintendent of Police. The date of retirement of petitioner No.1 is 30.06.2008 and date of retirement of petitioner No.2 is 31.10.2005. The petitioners retired after completing 14 years service as DSP. The petitioner No.1 completed 14 years service as DSP on 20.02.2008 and petitioner No.2 completed in April' 2005. The respondent

has denied benefit of ACP to petitioners on the ground that benefit as per impugned instructions accrued on first day of subsequent year meaning thereby, the benefit to petitioner No.1 accrued on 01.01.2009 and to petitioner No.2 on 01.01.2006. The petitioners retired in the intervening period i.e. date of completion of 14 years service and date of accrual of the benefit.

3. Learned counsel for the petitioner submits that a two Judge Bench of ***Supreme Court in Director (Admn. And HR) KPTCL and others Vs. C.P. Muddinamani and others 2023 SCC OnLine SC 401*** has settled the controversy involved in the present case. The Supreme Court has held that benefit accrues on the date of completion of required service. The relevant extracts of the judgment read as:

“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 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 v. Pavithran (O.P.(CAT) No. 111/2020 decided on 22.11.2022) and the Himachal Pradesh High Court in the case of Hari Prakash v. 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. Learned counsel for the respondents expressed his inability to controvert applicability of afore-cited judgment to the present case.
5. The issue stands settled by Supreme Court in **C.P. Mundinamani and others** (supra), thus, present petition deserves to be allowed and accordingly allowed. The petitioners shall be released arrears within 3 months from today.

(JAGMOHAN BANSAL)
JUDGE

05.12.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No