

CWP No. 19714 of 2022 and other connected case
2023:PHHC:144141

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 263)

(1) CWP No. 19714 of 2022
Date of Decision : 14.11.2023

Kapoor Singh
...Petitioner

Versus

State of Haryana and others
...Respondents

(2) CWP No. 15015 of 2023

Sh. Karnail Singh and others
...Petitioners

Versus

State of Haryana and others
...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amit Kaith, Advocate for the petitioners.

Mr. Tapan Kumar Yadav, Deputy Advocate General,
Haryana.

Harsimran Singh Sethi J. (Oral)

1. Reply on behalf of respondents No. 1 to 4 has been filed in
Court today. The same is taken on record.

2. By this common order, two writ petitions, the details of
which have been given in the heading, are being decided as both these
petitions involve the same question of law on similar facts.

3. The question of law, which has been raised in the present petitions is whether, an employee who has completed 12 months of service before retirement, is entitled for the annual increment or not even if, the said increment is to be given on the next date of his retirement.

4. Learned counsel for the respondents submits that keeping in view the objection raised in the reply, once a particular date has been fixed for the grant of increment, hence, even if an employee has completed 12 months of service before retirement but on the date when the said annual increment is to be granted, if the employee is not in service, no increment can be granted to him/her. Learned counsel for the respondents submits that increment is to be granted to a person, who is in service but whereas, on the date when the said increment is being claimed, the petitioners have already retired from service.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. The question of law raised in these petitions is no longer res-integra. The same question of law has already been decided by the Hon'ble Supreme Court in Civil Appeal No. 2471 OF 2023 (@ SLP (C) No. 6185/2020) titled as ***The Director (Admn. and HR) KPTCL & Ors. versus C.P. Mundinamani & Ors.***, decided on 11.04.2023. As per the said judgment, the Hon'ble Supreme Court of India has held that once an employee has completed 12 months of service before retirement, the employee is entitled for the annual increment even if the same was to be

granted on the next day of the retirement. The relevant paragraph 6.7 of the said judgment is as under :-

“xxx xxx xxx xxx

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 here-in-above, 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 here-in-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 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 **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).**”*

7. Learned counsel for the respondents has not been able to differentiate the claim of the petitioners as raised in the present petition keeping in view the above mentioned judgment of the Hon’ble Supreme Court of India.

8. Keeping in view the above, the present petitions are allowed in view of the judgment of the Hon’ble Supreme Court of India in **C.P. Mundinamani’s case (supra)**, the respondents are directed to grant the

petitioners one annual increment before retirement and grant the consequential benefits to the petitioners as well by re-computing the pensionary benefits and the petitioners be extended the arrears of pensionary benefits as well as the pension whatever the petitioners are found entitled for after re-computing their entitlement.

9. Let the said order be complied with within a period of two months from the receipt of certified copy of this order.

10. Petitions are allowed in above terms.

11. A photocopy of this order be placed on the file of other connected case.

November 14th, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No