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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 21st November, 2023

+ W.P.(C) 7579/2020

KAILASH CHAND PANDEY

.... Petitioner

versus

UOI AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Manjeet Singh, Advocate.

For the Respondent: Mr. Neeraj, SPC for UOI with
Mr.Sahaj, Mr. Vedansh Anand and
Mr. Rudra, Advocates.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.24111/2023 (filed on behalf of petitioner for recalling order dated 07.12.2022)

1. This is an application seeking recall of order dated 07.12.2022 whereby the petition was adjourned *sine die*.
2. For the reasons stated in the application, the application is allowed.
3. Petition is taken up for consideration today itself.



W.P.(C) 7579/2020

1. Petitioner seeks quashing of order dated 24.03.2022 whereby the request of the petitioner for grant of one notional increment with effect from 01.07.2020 for the purpose of pensionary benefits only was rejected. Petitioner further seeks a direction to respondents to re-fix the pensionary benefits of the petitioner and to release the arrears of the petitioner.

2. Learned counsel for the petitioner submits that the facts of the case of the petitioner are identical to the case of the petitioner in *Surender Singh Dalal vs. Union of India & Anr.* (W.P.(C) 5446/2023), which petition was disposed of vide decision dated 28.04.2023. A coordinate Bench of this Court in *Surender Singh Dalal* (supra) noted the decision of Madras High Court dated 15.09.2017 in W.P.(C) 15732/2017 titled as *P. Ayyamperumal vs. The Registrar (C.A.T.) & Ors.* wherein the Madras High Court held as under:-

*“6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in **State of Tamil Nadu, rep. by its Secretary to Government, Finance Department and others vs. M.Balasubramaniam, reported in CDJ 2012 MHC 6525**, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2022 to 31.03.2003,*



which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs."

3. The coordinate Bench also noticed that the judgment of the Madras High Court was challenged before the Supreme Court in SLP (C) Diary No.22283/2018 titled *Union of India & Ors. vs. P. Ayyamperumal*. Said SLP was dismissed and applying the ratio of the judgment of the Madras High Court granted relief to the petitioner.

4. Subject petition before us is also of a retired Central Government employee and the rule applicable is CCS(Pension) Rules, 1972, therefore, the present petitioner is similarly situated to the relief granted by the Madras High Court which has been upheld by the Hon'ble Supreme Court as also to the petitioner in *Surender Singh Dalal* (supra).



5. Applying the said ratio, we are also of the view that petitioner is entitled to the grant of one notional increment with effect from 01.07.2020 for the purposes of pensionary benefits. Respondents are directed to re-fix the pensionary benefits and release the arrears of the petitioner within twelve weeks.

6. Petition is allowed in the above terms.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

NOVEMBER 21, 2023
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