IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 2nd OF FEBRUARY, 2024

WRIT PETITION No. 2539 of 2024

BETWEEN:-

JAYSHREE PURANIK W/O LAXMIKANT PURANIK, AGED ABOUT 68 YEARS, OCCUPATION: RETD. ASST. TEACHER GOVT GIRLS MIDDLE SCHOOL SANKUL RADHABAI MADHYAMIK VIDHYALAYA, DEWAS, R/O 602-D BLOCK BICHOLI MARDANA SHRIJI HEIGHTS INDORE (MADHYA PRADESH)

.....PETITIONER

(BY SHRI ANAND AGRAWAL - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY, EDUCATION, DEPARTMENT VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

2. **DISTRICT EDUCATION OFFICER DISTRICT DEWAS, TEHSIL SQUARE NEAR LAL GATE DEWAS (MADHYA PRADESH)**

3. **DISTRICT PENSION OFFICER DISTRICT DEWAS, TEHSIL SQUARE, NEAR LAL GATE, DEWAS (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI SHREY RAJ SAXENA - ADDL. ADVOCATE GENERAL FOR STATE)

This petition coming on for admission this day, the court passed the following:

ORDER

Signature Not Verified
Signed by: SHAILESH MAHADEV SUKHDEVE
Signing time: 2/2/2024 6:24:12 PM

1. The petitioner has filed the present petition seeking release of last increment which became due to him on 30.06.2018.

2. Learned counsel for the petitioner submits that the petitioner stood retired from service on 30.06.2018. The respondents have denied him the increment which was payable *w.e.f.* 01.07.2018 i.e. after the date of his retirement. Earlier, this issue came up for consideration before this Court in the case of **Rajendra Prasad Tiwari** V/s. **State of M.P.** (**W.P. No.18030/2019** decided on **03.12.2019**) whereby the petition was allowed by directing the respondents/State to extend benefit of increment fell due on 1.7.2015 and accordingly the retiral dues be revised and paid. The aforesaid order was challenged by the State of M.P. by way of **W.A. No.363/2020** and vide order dated **06.03.2020** the same has been dismissed.

3. Similar orders were passed by different High Courts and one of the matters travelled up to the Supreme Court in the case of **The Director (Admn. and H.R.) KPTCL & others** V/s. **C.P. Mundinamani & others** (**Civil Appeal No.2471/2023** recently decided on **11.04.2023**) and the apex Court has upheld the decision of the High Court whereby direction was given 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.

4. Learned counsel appearing for the respondents/State, submits that i n **W.A. No.717/2016** (**State of M.P. & others** V/s. **Arun Kumar Shrivastava**) similar issue came up for consideration before the Division Bench of this Court and vide order dated **10.07.2017** the Division Bench allowed the writ appeal and quashed the order passed by the writ Court and dismissed the writ petition. This judgment was not brought to the knowledge of the Bench in the case of Rajendra Prasad Tiwari (supra). Hence, order passed in W.A.

Signature Not Verified
Signed by: SHAILESH MAHADEV SUKHDEVE
Signing time: 2/1/2024 6:24:12 PM

No.717/2016 is liable to be followed and this writ petition be dismissed.

5. Heard.

6. Learned Government Advocate appearing for the respondents/State is right in submitting that the earlier judgment shall prevail, but in the present case the apex has now decided the issue which is binding on High Court. Hence, the issue is no more *res integra*. Para 6.7 and 7 of the judgment passed by the apex Court in the case of The Director (Admn. and HR) KPTCL (supra) are reproduced below: -

> *"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 hereinabove, to interpret Regulation 40(1) of the Regulations in the manner in which the appellants have understood and/or interpretated 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 herein 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*

Signature Not Verified
Signed by: SHAILESH MAHADEV SUKHDEVE
Signing time: 2/2/2024 6:24:12 PM

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. 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

Signature Not Verified
Signed by: SHAILESH MAHADEV SUKHDEVE
Signing time: 2/2/2024 6:24:12 PM

costs."

7. In view of the above, this petition deserves to be and is hereby allowed. The respondents are directed to grant the benefit of one annual increment which fell due on 01.07.2018 to the petitioner and also to revise his retiral dues and be paid to him. Let the whole exercise be completed within 60 days from the date of receipt of certified copy of this order.

(PRANAY VERMA)
JUDGE

SS/-



Signature Not Verified
Signed by: SHAILESH MAHADEV SUKHDEVE
Signing time: 2/2/2024 6:24:12 PM