

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(Sr. No.126)

CM-328-LPA-2024 in/and
LPA No.139 of 2024

Date of decision: 16.01.2024

The Principal Secretary, Govt. of Punjab, Department of Finance (F.D.)
and others

..... Applicants-appellants

Versus

Hari Sharma and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Ms. Deepali Puri, Addl. A. G., Punjab
for the applicants-appellants.

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DEEPAK SIBAL, J. (Oral)

(1) Through the judgment impugned through the present intra court appeal, a bunch of 23 petitions was allowed by the learned Single Judge. Challenging the said judgment, the State preferred *LPA No.696 of 2022 – State of Punjab and another Vs. Malagar Singh*. Such appeal was filed on 18.08.2022. The present appeal has been filed by the State on 08.01.2024. If the State could file the intra court appeal in *Malagar Singh* (supra) in August, 2022, it could have also filed the present appeal at that time. The reasons given in the application seeking condonation of delay of 621 days in filing of the present appeal also leave huge unexplained gaps. Thus, we find that the delay of 621 days in filing of the appeal has not been satisfactorily explained.

(2) Irrespective of the above, through the impugned judgment, the issue decided by the learned Single Judge is that the respondents could not be denied the grant of annual increment after they had served for 12 months only on the ground that on the next day of completion of their service *i.e.* on the date of accrual of the increment, they were not in service as on such date they stood superannuated.

(3) The afore issue stands settled in the employees' favour by the Supreme Court in its recent decision dated 11.04.2023 passed in ***Civil Appeal No.2471 of 2023 (SLP (C) No.6185 of 2020) – The Director (Admn. and HR) KPTCL & others vs. C.P. Mundinamani and others.*** The relevant portions of the said judgment are reproduced below for reference : -

“6.5 Now, so far as the submission on behalf of the appellants that as the increment has accrued on the next day on which it is earned and therefore, even in a case where an employee has earned the increment one day prior to his retirement but he is not in service the day on which the increment is accrued is concerned, while considering the aforesaid issue, the object and purpose of grant of annual increment is required to be considered. A government servant is granted the annual increment on the basis of his good conduct while rendering one year service. Increments are given annually to officers with good conduct unless such increments are withheld as a measure of punishment or linked with efficiency. Therefore, the increment is earned for rendering service with good conduct in a year/specified period. Therefore, the moment a government servant has rendered service for a specified period with good conduct, in a time scale, he is entitled to the annual increment and it can be said that he has earned the annual increment for rendering the specified period of service with good conduct. Therefore, as such, he is entitled to the benefit of the annual increment on the eventuality of having served for a specified period (one year) with good conduct efficiently. Merely because, the government servant has retired on the very next day, how can he be denied the annual increment which he has earned

and/or is entitled to for rendering the service with good conduct and efficiently in the preceding one year.

xxxx xxxx xxxx

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 costs.”*

(4) Thus, the Supreme Court in **C.P. Mundinamani’s** case (supra) has decided in no uncertain terms that an employee who has earned his annual increment is entitled to the same despite the fact that he has retired a day prior to its accrual.

(5) In view of the law laid down by the Supreme Court in **C.P. Mundinamani’s** case (supra), we are of the opinion that the learned Single Judge has not committed any error in fact or in law to allow the respondents’ petition

(6) In the light of the above, the appeal is dismissed both on the ground of delay as also on merits.

(7) No costs.

(DEEPAK SIBAL)
JUDGE

16.01.2024
sunil yadav

(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No