IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

127 **CWP-11510-2024**
Date of Decision: 17.05.2024

Major Singh Bhinder

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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Present: Mr. Nirmal Singh, Advocate,
for the petitioner.

Mr. Satnampreet Singh, DAG, Punjab.

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AMAN CHAUDHARY, J. (Oral)

1. The prayer in the present petition is for directing the respondents to grant annual increment to the petitioner for the service, that he rendered continuously for one year before his superannuation and grant him all consequential benefits including revised pension and pensionary benefits, for which reliance was placed on the judgment of a Coordinate Bench passed in CWP-32598 of 2019, titled Gurdev Singh and others vs. State of Punjab and another, decided on 16.03.2022, Annexure P-1, against which the LPA-922-2022, stands decided on 09.04.2024, wherein a batch of petitions with lead LPA-696-2022, titled as **State of Punjab and another vs. Malagar Singh** were dismissed, the relevant paras thereof reads thus:

> "3. The present appeals are also barred by around 43 to 621 days' delay in filing and 04 to 71 days' delay in re-filing. It has been brought to our notice that while dealing with the said bunch, CWP-22679-2020 titled **Hari Sharma and others Vs Principal Secretary and others** was also decided. LPA-139-2024 filed by the State already stands dismissed by another Coordinate Bench on 16.01.2024 while placing reliance upon the judgement of the Apex Court in **The Director (Admn. and HR) KPTCL & others Vs C.P. Mundinamani and others**, 2023 AIR (SC) 1956.

The relevant portion reads as under:-"

(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."
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> 5. Resultantly, the applications for condonation of 43 to 621 days' delay in filing and 04 to 71 days' delay in re-filing are allowed and the appeals are dismissed."

2. Learned State counsel despite his best efforts has not been able to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.

3. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Malagar Singh** (supra).

(AMAN CHAUDHARY)
JUDGE

17.05.2024
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Whether speaking :Yes/No
Whether reportable:Yes/No