**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

122

CWP-14576-2024 (O&M)
Date of Decision:01.07.2024

Ishwar Chand

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

****

Present : Mr. Naveen Daryal, Advocate for the petitioner

Mr. Harish Nain, AAG, Haryana

****

AMAN CHAUDHARY J. (Oral)

1. The prayer in the present petition is for directing the respondents to grant one notional annual increment to the petitioner.

2. Learned counsel submits that the petitioner retired as Assistant Agricultural Engineer, after rendering 37 years and 11 months of service, on attaining the age of superannuation on 30.04.2014. However the increment to which he was entitled, due on 01.07.2014, was not granted. The issue involved herein has already been dealt with by the Division Bench in the case of **Suresh Kumar Singla and others vs. State of Haryana and others**, CWP-8364-2024, decided on 16.04.2024, wherein Rule 10 of the Haryana Civil Services (Revised Pay) Rules, 2008 was read down and the petitioners therein were held entitled to one increment, the relevant paras thereof read thus:

> "3. The issue raised by the petitioners is no more *res integra* and stands finally adjudicated by the Supreme Court in the case of **The Director (Administration and HR) KPTCL and others vs. C.P.**

Mundinamani and others, 2023 SCC Online SC 401, wherein the Supreme Court while examining the same issue has upheld the view taken by the High Court of Karnataka and has held as under:

> " "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."
>
> xx xx xx

6. Learned counsel appearing for the State fairly concedes that the issue stands already adjudicated, and has also pointed out that the Division Bench of this Court in the case of **Union of India and others vs. Vijay Kumar in CWP-24010-2023, decided on 08.11.2023,** has taken an identical stand.

7. The Division Bench in the case of Union of India and others vs. Vijay Kumar (supra), following the judgment passed by Supreme

Court in The Director (Administration and HR) KPTCL and others (supra), has held as under:

> "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. The law laid down by the Supreme Court in C.P. Mundinamani's case (supra) fully covers the case of the respondent in his favour and against the petitioners. Therefore, the Tribunal is found to have committed no error, in fact or in law, to allow the respondent's OA."

8. In view of above, we find that the Rule 10 of the Rules, 2008 goes contrary to the judgment passed by the Supreme Court as well as by the Division Bench of this Court (supra), and therefore to the said extent where it denies granting of increment to an employee who has retired on 30th of June or 31st of December of the year, is held to be bad in law.

9. We therefore, read down the Rule 10 of the Rules, 2008 to mean that one annual increment would be earned to an employee on the last day of his service, for the services rendered by him in the preceding one year from the date of retirement with good behaviour and efficiency. Accordingly, the 'uniform date of annual increment' mentioned in Rule 10 would mean completion of the year as on 1st of July of every year and 1st of January of a year.

10. Petitioners No.1 and 2 have retired on 30th of June of the concerned year, while petitioners No.3, 4 and 5 have retired on 31st of March. Annual increment is to be granted to an employee on account of his past service of 12 months. The Rule also provides that if a person has rendered more than six months, he would be deemed to have completed 12 months of service for the purpose of grant of increment. Since the petitioners, who retired on 31st of March of the concerned year, have completed 09 months of service in a year, they were entitled to receive the benefit of increment for one year. Having reached to the aforesaid finding, we find that the case of the persons who have retired on 31st of March of the year would also be entitled for the benefit in terms of the judgment passed in the case of Director (Administration and HR) KPTCL and others (supra).

11. The writ petition is accordingly allowed as above.

12. Accordingly, it is directed that the petitioners No.1 to 5 would be entitled to one increment and the respondents are directed to revise their retiral benefits and pension accordingly.

13. Said exercise shall be completed within a period of three months." (Emphasis Supplied)

3. Learned State counsel despite his best efforts was unable to controvert the factual position and draw out any distinctive aspects in the

aforementioned judgment or cite any contrary law.

4. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Suresh Kumar Singla** (supra).

(AMAN CHAUDHARY)
JUDGE

July 01, 2024
dinesh

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