IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.108 CWP-23073-2024

Date of decision : 12.09.2024

Ajmer Chand and another ….. Petitioners

Versus

State of Haryana and others ..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr.R.S.Kadian, Advocate, for the petitioners.

Mr.Vivek Chauhan, Addl.A.G., Haryana.

* * * * *

DEEPAK SIBAL, J. (Oral)

1. Through the present petition, the petitioners seek issuance of directions to the State of Haryana to re-fix their pension after granting them the annual increment which had accrued to them on the 1st of July of the year of their retirement and had been denied only for the reason that they had retired on a day prior to the afore accrual i.e. on 30th June.

2. Learned State counsel does not dispute the respective dates when both of the petitioners retired from service as also the dates of accrual of their annual increment.

3. The issue as to whether employees, after rendering satisfactory service for 12 months and retiring a day prior to the date of accrual of their annual increment are entitled to the grant thereof has now been settled in the employees' favour by the Supreme Court in its 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 paragraphs of the said judgment are reproduced below for reference:-

> *" 6.2 It is the case on behalf of the appellants that the word used in Regulation 40(1) is that an increment accrues from the day following that on which it is earned and in the present case the increment accrued on the day when they*

retired and therefore, on that day they were not in service and therefore, not entitled to the annual increment which they might have earned one day earlier. It is also the case on behalf of the appellants that as the increment is in the form of incentive and therefore, when the employees are not in service there is no question of granting them any annual increment which as such is in the form of incentive.

6.3 At this stage, it is required to be noted that there are divergent views of various High Courts on the issue involved. The Full Bench of the Andhra Pradesh High Court, the Himachal Pradesh High Court and the Kerala High Court have taken a contrary view and have taken the view canvassed on behalf of the appellants. On the other hand, the Madras High Court in the case of P. Ayyamperumal (supra); the Delhi high Court in the case of Gopal Singh Vs. Union of India and Ors. (Writ Petition (C) No. 10509/2019 decided on 23.01.2020); the Allahabad High Court in the case of Nand Vijay Singh and Ors. Vs. Union of India and Ors. (Writ A No. 13299/2020 decided on 29.06.2021); the Madhya Pradesh High Court in the case of Yogendra Singh Bhadauria and Ors. Vs. State of Madhya Pradesh; the Orissa High Court in the case of AFR Arun Kumar Biswal Vs. State of Odisha and Anr. (Writ Petition No. 17715/2020 decided on 30.07.2021); and the Gujarat High Court in the case of State of Gujarat Vs. Takhatsinh Udesinh Songara (Letters Patent Appeal No. *868/2021) have taken a divergent view than the view taken by the Full Bench of the Andhra Pradesh High Court and have taken the view that once an employee has earned the increment on completing one year service he cannot be denied the benefit of such annual increment on his attaining the age of superannuation and/or the day of retirement on the very next day.*

6.4 Now so far as the submission on behalf of the appellants that the annual increment is in the form of incentive and to encourage an employee to perform well and therefore, once he is not in service, there is no question of grant of annual increment is concerned, the aforesaid has no substance. In a given case, it may happen that the employee earns the increment three days before his date of superannuation and therefore, even according to the Regulation 40(1) increment is accrued on the next day in that case also such an employee would not have one year service thereafter. It is to be noted that increment is earned on one year past service rendered in a time scale. Therefore, the aforesaid submission is not to be accepted.

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 on 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. Learned counsel for the respondents has not been able to distinguish the afore law laid down by the Supreme Court in ***C.P. Mundinamani's case*** (supra). On facts, we also find that ***C.P. Mundinamani's case*** (supra) fully covers the case of the petitioners in their favour and against the respondents.

5. In the light of the above, the present petition is allowed and the petitioners are held entitled to the grant of increment which accrued to them on 1st of July of the year of their respective retirements, with all consequential benefits. However, in terms of the order dated 06.09.2024 passed by the Supreme Court in **SLP (Civil) No.4722-2021- Union of India & Anr. Vs. M. Siddaraj**, it is directed that the afore benefit shall be granted to the petitioners notionally and that the payment of arrears shall be payable to them only from 01.05.2023.

[DEEPAK SIBAL]
JUDGE

12.09.2024
shamsher

[DEEPAK MANCHANDA]
JUDGE

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