



2024:DHC:2122



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 14.03.2024

+ W.P.(C) 3781/2024

DR GHANSHYAM CHOURASIYA Petitioner

versus

UNION OF INDIA AND ANR Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Viraj Kadam, Advocate.

For the Respondents : Mr. Rishabh Sahu, SPC with Mr. Hardik Bedi, GP for R-1 and R-2.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. 15563/2024 (for exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 3781/2024

3. This is a writ petition under Article 226 of the Constitution of India, 1950, seeking *inter alia* the following reliefs:-

"A. Allow the present writ petition;

B. Issue appropriate writ (writ of mandamus) onto the Respondents to comply with the judgment dated 11 April 2023 in Civil Appeal 2471/2023 passed by the Honorable Supreme Court. of India in time bound manner, preferably within one month;



C. Issue appropriate writ onto the Respondents directing them to release the notional retirement benefits from the respective date of retirement along with arrears and other consequential benefits to the Petitioner in accordance with the judgment dated 11 April 2023 in Civil Appeal 2471/2023 passed by the Honorable Supreme Court of India in time bound manner, preferably within one month;

D. Pass such other relief necessary in the interest of justice”

4. The issue in respect of the present petition is no more *res integra*, in view of the ratio laid down by the Supreme Court in ***The Director (Admin & HR) KPTCL and Others vs. C.P. Mundinamani and Others*** reported as (2023) SCC OnLine SC 401, whereby it was held that the employees are entitled to one last increment in the year of retirement/superannuation. The same was followed by the Supreme Court in another judgment dated 19.05.2023 captioned as ***Union of India and Anr. vs. M. Siddaraj*** in SLP (C) 4722/2021.

5. Learned counsel for the petitioner submits that the aforesaid judgments of the Supreme Court being *in rem*, all employees of the Government across the board have to be given similar benefits being similarly circumstanced as the employees in ***Mundinamani's case (supra)*** and in the ***M. Siddaraj's case (supra)***.

6. Issue Notice.

7. Notice is accepted by Mr. Rishabh Sahu, learned SPC appearing for respondent Nos. 1 and 2 and he submits that though, there is no quarrel with the ratio laid down by the Supreme Court, however, it is yet to be seen as to whether the petitioner is entitled to such benefits, and if so, the consequences thereto.

8. After hearing the parties and perusing the judgments passed by the Supreme Court in seeking ***Mundinamani's case (supra)***, it is clear



that the said judgment is a judgment *in rem*, and as such, would be applicable to all employees across the board, who are at similarly circumstanced.

9. The only thing, which has to be decided in the present case is, as to whether the petitioner would be entitled, if so, the consequence thereof.

10. Instead of requiring of the respondents to file counter affidavit and then prolong the disposal, it appears apposite in the circumstances of the case, as also in view of the fact that the issue raised in the present case is no more *res integra*, what with the Apex Court having decided in favour of the employees similarly situated as like the present petitioner to direct that the present petition be treated as a representation by the respondents and be disposed of in accordance with law.

11. The respondents shall consider the present petition as a representation and dispose of the same with a reasoned and speaking order within six weeks from today, in view of the directions passed by the Supreme Court in *Mundinamani's case (supra)* and in the *M. Siddaraj's case (supra)*.

12. Needless to state that the order shall be transmitted to the petitioner forthwith, after the decision is taken. The petitioner would be at liberty to challenge, if required, the order so passed.

13. The petition along with pending application stands disposed of.

TUSHAR RAO GEDELA, J.

MARCH 14, 2024/nd