



2024:DHC:9714-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 16.12.2024***

+ W.P.(C) 2393/2018

AUTAR SINGH

.....Petitioner

Through: Mr. Rakesh Dahiya, Adv.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Ms. Abha Malhotra, Adv.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****SHALINDER KAUR, J. (Oral)**

1. The petitioner, who has superannuated at the rank of an Inspector with the Border Security Force (BSF), has approached this Court under Article 226 of the Constitution of India, seeking a direction to the respondents to reassess the last drawn salary with a basic pay of Rs. 60,400/- and accordingly, fix the pension of the petitioner. In addition, the petitioner also prays for the payment of arrears of 3rd Assured Career Progression (ACP), which benefit was granted to him belatedly.

2. The learned counsel for the petitioner submits that the respondents have erroneously fixed his pension and have also failed to grant the increment to the petitioner due to him on 01.07.2015, and pay the arrears of pension.



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3. *Per contra*, Ms. Abha Malhotra, the learned counsel for the respondents, submits that a government servant whose date of birth is the first of the month, shall retire from service on the afternoon of the last day of the preceding month on attaining the age of 60 years. She submits that the date of birth of the petitioner is 01.07.1959, and as per the rules, he retired on 30.06.2016, for which he cannot be granted an increment. She submits that, therefore, his pension has been correctly prepared and is being paid to him.

4. She has drawn our attention to the Office Memorandum dated 14.10.2024, issued by the Department of Personnel & Training, whereby it has been decided to implement the interim Order dated 06.09.2024, passed by the Supreme Court in Miscellaneous Application bearing Diary Number 2400/2024 in SLP(C) No. 4722/2021 titled ***Union of India & Anr. vs. M. Siddaraj***, without prejudice to the stand of the respondents and without prejudice to any change in law in that regard.

5. We have considered the submissions made by the learned counsels for the parties.

6. The primary claim of the petitioner to receive the annual increment inspite of him retiring on 30th day of June, is no longer *re integra* and has been decided in favour of the petitioner in ***Director (Admn. & HR) KPTCL and Ors. vs. C.P. Mundinamani & Ors.***, (2023) SCC OnLine SC 401. However, in ***M. Siddaraj*** (supra), the Supreme Court has passed the following interim order in relation to the implementation of its earlier judgment in ***Director (Admn. & HR) KPTCL*** (supra):-



“(a) The judgment dated 11.04.2023 will be given effect to in case of third parties from the date of the judgment, that is, the pension by taking into account one increment will be payable on and after 01.05.2023. Enhanced pension for the period prior to 31.04.2023 will not be paid.

(b) For persons who have filed writ petitions and succeeded, the directions given in the said judgment will operate as res judicata, and accordingly, an enhanced pension by taking one increment would have to be paid.

(c) The direction in (b) will not apply, where the judgment has not attained finality, and cases where an appeal has been preferred, or if filed, is entertained by the appellate court.

(d) In case any retired employee has filed any application for intervention/impleadment in Civil Appeal No. 3933/2023 or any other writ petition and a beneficial order has been passed, the enhanced pension by including one increment will be payable from the month in which the application for intervention/impleadment was filed.”

7. Keeping in view the above, we dispose of the writ petition, by directing the respondents to pass a reasoned and speaking order, treating the present petition as a representation of the petitioner and the decide the claims raised therein keeping in view the Judgement of the Supreme Court in **Director (Admn. & HR) KPTCL** (supra) and its order in **M. Siddaraj** (supra). Further, the respondents are directed to also consider the claim of the petitioner with respect to the payment of arrears of the 3rd ACP, which was granted to him belatedly.

8. The Order in terms of aforesaid directions shall be passed by the respondents and be duly communicated to the petitioner within a period of four weeks from today. If the petitioner is still aggrieved by



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the fresh Order passed by the respondents, it will be open to the petitioner to seek legal recourse in accordance with law.

9. Accordingly, the writ petition, along with pending application, if any, is disposed of.

SHALINDER KAUR, J

NAVIN CHAWLA, J

DECEMBER 16, 2024
KM/SU/DG

Click here to check corrigendum, if any