IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23188 of 2019

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Tripurari Prasad Singh, Son of Late Paras Nath Singh, Resident of Mohalla- A.G. Colony Sheikhpura, PS-Shastri Nagar, District-Patna.

... ... Petitioner/s

Versus

1. The Accountant General, Bihar Patna.
2. The Principal Accountant General (AU), Bihar, Patna.
3. The Senior Audit Officer (Administration), Accountant General Officer, Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Advocate Ms. Ritika Rani, Advocate
For the Respondent/s	:	Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 09-07-2025

Heard the parties.

2. The challenge in the present writ petition is made to an order dated 19.08.2019 issued under the signature of Senior Audit Officer (Administration), as contained in Annexure-4 to the writ petition, by which the representation of the petitioner for grant of one increment against the post of Assistant Audit Officer as on 01.07.2008 has been rejected after observing that the decision of the High Court of Judicature at Madras in W.P. No. 15732 of 2017 as contained in Annexure-3 is not applicable universally and to all the similarly placed retired Central Government servant.

3. Mr. Dinu Kumar, learned Advocate for the

petitioner while assailing the impugned order has contended that the respondents have failed to consider that the decision rendered by the learned Division Bench of the Madras High Court came to be affirmed by the Apex Court in Special Leave Petition (Civil) Diary No(s).22283 of 2018. Taking this Court through the decision rendered by the learned Division Bench of the Madras High Court, it has further been submitted that the judgment does not leave room for any confusion that it would not apply to all the identically situated employees. Moreover, in an identical matter where the order passed by the Central Administrative Tribunal, Bengaluru Bench was challenged before the High Court of Karnataka, Dharwad Bench; the learned Court while affirming the order of the Central Administrative Tribunal, referring to the decision of Madras High Court in W.P. No.15732 of 2017, has held that the applicant who was granted annual increment on 01.07.2013 had completed one year of service as on 30.06.2014 i.e., the date of his superannuation and thus do not find any error in the reasoning of the Tribunal, who directed for extending the benefit of next increment. The learned Division Bench also noted that the challenge to the order passed in W.P. No.15732 of 2017 also failed in the Hon'ble Supreme Court.

4. On the other hand, learned Advocate for the

Accountant General referring to the averments made in the counter affidavit has submitted that the judgment on which the petitioner is placing reliance is only a judgment in personam and not in rem; hence, the benefit which was extended to the applicant in W.P. No. 15732 of 2017 that would not be admissible to the petitioner.

5. Having heard the submissions set forth by the learned Advocate for the respective parties, this Court finds that the issue involved in the present writ petition has already been set at rest in Civil Appeal No.2471 of 2023 **[Director (Admn. and HR) KPTCL and Others v. C.P. Mundinamani and Others]**, wherein the Hon’ble Apex Court in so many words clarified the position and turned down the objection by holding in para-6.5 as follows:-

> “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."

6. At a later date, on account of some confusion created with regard to the date of applicability of the judgment passed in Civil Appeal No.2471 of 2023, a Review Petition in Diary No. 36418 of 2024 came to be filed before the Apex Court, wherein the Hon'ble Court has pleased to pass interim order on 06.09.2024 as follows:-

"We are informed that a large number of fresh writ petitions have been filed.

To prevent any further litigation and confusion, by of an interim order we direct that:

(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 judiciata*, 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/impleadent was filed.

This interim order will continue till further orders of this Court. However, no person who has already received an enhanced pension including arrears, will be affected by the directions in (a), (c) and (d)."

Finally, the aforesaid civil review came to be disposed off with a slight modification in Clause (d) with an interim order dated 06.09.2024, which reads as follows:-

> "We are inclined to dispose of the present miscellaneous applications directing that Clauses (a), (b) and (c) of the order dated 06.06.2024 will be treated as final directions. We are, however, of the opinion that Clause (d) of the order dated 06.09.2024 requires modification which shall now read as under:
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> > "(d) In case any retired employee filed an application for intervention/impleadment/writ petition/original application before the Central Administrative Tribunal/High Courts/this Court, the enhanced pension by including one increment will be payable for the period of three years prior to the month in which the application forintervention/impleadment/writ petition/original application was filed."
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> Further, clause (d) will not apply to the retired government employee who filed a writ petition/original application or an application for intervention before the Central Administrative Tribunal/High Courts/this Court after the judgment in "Union of India & Anr. v. M. Siddaraj", as in such cases, clause (a) will apply.
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> Recording the aforesaid, the miscellaneous

applications are disposed of."

7. In view of the afore-noted settled legal position, this Court finds that impugned order dated 19.08.2019 as contained in Annexure-4 to the writ petition is wholly unsustainable and fit to be quashed and cancelled.

8. The respondent authorities are directed to extend the benefit of next increment to the petitioner in terms of the law settled by the Apex Court, as afore-noted, preferably within eight weeks from the date of receipt/production of a copy of this order.

9. The writ petition stands allowed.

(Harish Kumar, J)

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AFR/NAFR	NA
CAV DATE	NA
Uploading Date	14-07-2025
Transmission Date	