IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2025

CORAM

THE HON'BLE MR. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.18002 of 2024

K.S.Saravanan .. Petitioner

Vs.

1.The Chairman,
Chennai Port Authority,
Rajaji Salai,
Chennai – 600 001.

2.The Traffic Manager,
Traffic Department,
Chennai Port Authority,
Rajaji Salai, Chennai – 600 001.

3.The Financial Advisor &
Chief Accounts Officer (FA & CA),
Chennai Port Authority,
Rajaji Salai, Chennai – 600 001. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the 2nd respondent in proceedings No.A9/AL/2024/T dated 18.06.2024 and to quash the same and consequently direct the respondents to grant one increment to the petitioner for the completed year of service from 01.03.2023 to 29.02.2024 and fix the retiral benefits of the petitioner in accordance with the wage revision effected from 01.03.2024 within a time frame fixed by this Court.

For Petitioner .. Mr.K.C.Karl Marx

For Respondents .. Ms.Sithara Sarangan

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an order issued by the 2nd respondent dated 18.06.2024 and to quash the same and direct the respondents to grant one increment to the petitioner for the completed year of service from 01.03.2023 till 29.02.2024 and fix the retiral benefits of the petitioner accordingly.

2.In the affidavit filed in support of the writ petition, it had been stated that the writ petitioner had joined Chennai Port Trust on 20.03.1992. He was promoted and finally retired on attaining the age of superannuation on 29.02.2024 as Assistant Superintendent from Traffic Department. The annual increment was due on 01.03.2024. However, that was not granted since according to the respondents, he was no longer in service on

01.03.2024. The learned counsel for the respondents also contended that increment could be granted unless the employee is actually in service in accordance with their Fundamental Rule 26.

3.But however, it must be noted that increment is granted for the work done for the past year. It was only incidental that the petitioner retired on attaining the age of superannuation on 29.02.2024 when the increment was due to be granted on 01.03.2024. That increment to be granted on 01.03.2024 was for the work and service discharged for the previous year from 01.03.2023 till 29.02.2024.

4.In this connection, the learned counsel for the petitioner placed reliance on the order of a learned Single Judge of this Court in ***W.P.No.3357 of 2020, S.Manivannan Vs. The Chairman, Chennai Port Trust, Chennai***, wherein by an order dated 08.11.2023, the learned Single Judge had placed reliance on the observation of the Division Bench of this Court in W.P.No.15732 of 2017. By order dated 15.09.2017, the Division Bench had held as follows:

"7.The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013 as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs."

5.It is also seen that the Hon'ble Supreme Court had also examined the very same issue in a judgment reported in ***2023 SCC OnLine SC 401, Director (Admn. And HR) KPTCL and others Vs. C.P.Mundinamani and Others,*** wherein it had been held as follows:

*"**20.** Similar view has also been expressed by different High Courts, namely, the Gujarat [State of Gujarat v. Takhatsinh Udesinh Songara, 2022 SCC OnLine Guj 2522] High Court, the Madhya Pradesh [Yogendra Singh Bhadauria v. State of M.P., 2020 SCC OnLine MP 4654] High Court, the Orissa [Arun Kumar Biswal v. State of Odisha, 2021 SCC OnLine Ori 2368] High Court and the Madras [P. Ayyamperumal v. Central Administrative Tribunal, 2017 SCC OnLine Mad 37963] High Court. As observed hereinabove, to interpret Regulation 40(1) of the Regulations in the manner in which the appellants have understood and/or interpretated would lead to arbitrariness and denying a government servant the benefit of annual increment which he has already earned while rendering specified period of service with good conduct and efficiency in the last preceding year. It would be punishing a person for no fault of him. As observed hereinabove, the increment can be withheld only by way of punishment or he has not performed the duty efficiently. Any interpretation which would lead to arbitrariness and/or unreasonableness should be avoided. If the interpretation as suggested on behalf of the appellants and the view [Principal Accountant-General, A.P. v. C. Subba Rao, 2005 SCC OnLine AP 47] taken by the Full Bench of the Andhra Pradesh High Court is accepted, in that case it would tantamount to denying a government servant the annual increment which he has earned for the services he*

has rendered over a year subject to his good behaviour. The entitlement to receive increment therefore crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day.

21. *In the present case the word "accrue" should be understood liberally and would mean payable on the succeeding day. Any contrary view would lead to arbitrariness and unreasonableness and denying a government servant legitimate one annual increment though he is entitled to for rendering the services over a year with good behaviour and efficiently and therefore, such a narrow interpretation should be avoided.*

22. *We are in complete agreement with the view taken by the Madras High Court in P. Ayyamperumal [P. Ayyamperumal v. Central Administrative Tribunal, 2017 SCC OnLine Mad 37963] ; the Delhi High Court in Gopal Singh [Gopal Singh v. Union of India, 2020 SCC OnLine Del 2640] ; the Allahabad High Court in Nand Vijay Singh [Nand Vijay Singh v. Union of India, 2021 SCC OnLine All 1090] ; the Madhya Pradesh High Court in Yogendra Singh Bhadauria [Yogendra Singh Bhadauria v. State of M.P., 2020 SCC OnLine MP 4654] ; the Orissa High Court in Arun Kumar Biswal [Arun Kumar Biswal v. State of Odisha, 2021 SCC OnLine Ori 2368] ; and the Gujarat High Court in Takhatsinh*

Udesinh Songara [State of Gujarat v. Takhatsinh Udesinh Songara, 2022 SCC OnLine Guj 2522] . We do not approve the contrary view taken by the Full Bench of the Andhra Pradesh High Court in Principal Accountant-General, A.P. [Principal Accountant-General, A.P. v. C. Subba Rao, 2005 SCC OnLine AP 47] and the decisions of the Kerala High Court in Union of India v. Pavithran K. [Union of India v. Pavithran K., 2022 SCC OnLine Ker 5922] and the Himachal Pradesh High Court in Hari Prakash v. State of H.P. [Hari Prakash v. State of H.P., 2020 SCC OnLine HP 2362] "

5.In view of the above reasonings, I hold that the petitioner is entitled for the increment which fell on 01.03.2024 and his retiral benefits should be accordingly calculated and benefits should be granted to him. The entire exercise must be completed within a period of three months from the date of receipt of a copy of this order. Accordingly, this Writ Petition stands disposed of. No costs.

13.03.2025

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Index:Yes/No
Internet:Yes/No

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C.V.KARTHIKEYAN,J.

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