



W.P.No.23646 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 20.11.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.23646 of 2024

and

W.M.P.No.25866 of 2024

1.K.Egambaram
2.A.E.J.Baskaran
3.A.Varghese
4.J.Pushpalatha
5.P.Thiagarajan

.... Petitioners

Vs

1.The Chairperson
No. 1, Rajaji Salai,
Chennai Port Authority,
Chennai -600 001.

2.The Secretary,
No. 1, Rajaji Salai,
Chennai Port Authority,
Chennai -600 001.

3.The Chief Mechanical Engineer,
E & M Department,
Chennai Port Authority,
No. 1, Rajaji Salai,
Chennai -600 001.



W.P.No.23646 of 2024

4.The Financial Advisor &
Chief Accounts Officer (FA & CAJ),
Chennai Port Authority,
No. 1, Rajaji Salai, Chennai -600 001.

5.The Traffic Manager,
Traffic Department,
Chennai Port Authority,
No. 1, Rajaji Salai, Chennai -600 001.

.... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution praying to issue a Writ of Certiorarified Mandamus, (i) to call for the records of the respondents in F.No. A7/128/2020/T dated 22.04.2024, in the case of 1st to 3rd petitioners, No. Estt./2932/2023/F dated 02.06.2023 in the case of 4th petitioner and CME/A1/0169/2024/MEE dated 27.05.2024 in the case of 5th petitioner and quash the said orders and consequently direct the respondents to grant annual increment to the petitioners (ii) to treat the retirement dates of the 1st petitioner as on 01.01.2017, 2nd petitioner as on 01.01.2021, 3rd petitioner as on 01.04.2020, 4th petitioner as on 01.03.2023 and 5th petitioner as on 01.01.2015 and grant them all the consequential benefits including the pensionary benefits.

For Petitioners : Mr.P.Ayyamperumal
For Respondents : Mr.Sithra Sarangan

ORDER

This Writ Petition has been filed challenging the orders dated 22.04.2024, 02.06.2023 and 27.05.2024 passed by the fifth respondent, thereby rejecting the request made by the petitioner seeking grant of notional increment on completion of twelve months of service.

2/11



W.P.No.23646 of 2024

2.Heard the learned counsel appearing for the petitioner as well

as the learned counsel appearing for the respondents. Perused the materials available on record.

3.The petitioners are retired Assistant Superintendents. The first petitioner is retired from service under Special VRS on 31.12.2016. Thereafter, he found that his retirement benefits was not calculated by taking into account the full year period from 01.01.2016 to 31.12.2016, since the first petitioner was not in service on 01.01.2017 and he retired from service on 31.12.2016. Insofar as the second petitioner is concerned, he retired from service on 31.12.2020 and the period from 01.01.2020 to 31.12.2020 was not taken into account while calculating his retirement benefits. Insofar as the third petitioner is concerned, he retired from service on 31.03.2020 and the period from 01.04.2019 to 31.03.2020 was not taken into account while calculating his retirement benefits. The fourth petitioner retired from service on 28.02.2023 and the period from 01.03.2022 to 28.02.2023 was not taken into account for the purpose of calculating his retirement benefits. The fifth petitioner retired from service on 31.12.2014 and the period from 01.01.2014 to 31.12.2014 was not taken into account while calculating his retirement benefits.

3/11



W.P.No.23646 of 2024

4.The learned counsel appearing for the petitioners would

submit that the denial of increment for the completed period of one year was challenged by the petitioners by submitting representations, placing reliance on the decision of this Court in W.P.NO.8440 of 2011, wherein similarly placed persons had succeeded. He further submitted that a similar issue was also raised in W.P.No.15732 of 2017, which ultimately went upto the Hon'ble Supreme Court of India, and the orders passed by this Court granting one annual increment was confirmed. He further pointed out that One S.Manivannan, who retired from service, filed writ petition in W.P.No.15732 of 2017 and the same was allowed by this Court. However, no appeal has been filed as against the said order. Therefore, the petitioners are also entitled to similar benefits.

5.A perusal of the counter affidavit filed by the fifth respondent and the submissions made by the learned counsel appearing for the respondents, reveals that three petitioners were retired from service on VRS scheme long back. The Fundamental Rule 56 provides that a Government servant whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years. In the present case, the notional increment falls during the

4/11



W.P.No.23646 of 2024

month of January 2017, January 2021, April 2020, March 2023 and January 2015 respectively. The Fundamental Rules 26 regulates the sanction of increment to Government servant who is on duty. Since the petitioners were not in service on the respective dates on which the increments would have accrued, they were not granted the annual increment. That apart, the Judgment produced by the petitioners are not *in personam* in nature and therefore, it cannot be applied to all. Further, the Department of Personnel & Training issued guidelines for grant of notional increment to the Central Government Employees, wherein annual increments are regulated on 1st July and 1st January of each year. Insofar as the Port Sector is concerned, the annual increments are granted immediately after completion of one year of service. Further, the Rules prescribe other conditions such as continuation in service on the date of the increment, satisfactory performance, etc. Therefore, for eligibility to an increment, an employee must not only complete one full year of service, but should also be in service and on duty on the date on which the increment becomes due.

6. Admittedly, the petitioners retired under VRS scheme on 31.12.2016, 31.12.2020, 31.03.2020, 28.02.2023 & 31.12.2014 respectively.

That apart, the learned counsel appearing for the respondents vehemently



W.P.No.23646 of 2024

opposed the grant of relief on the ground of delay and laches. Admittedly, all the petitioners submitted their representations only after an order passed in favour of one individual who had filed writ petition long before. Therefore, those benefits cannot be extended to the petitioners. The learned counsel for the petitioner relied upon the Judgement reported in **(2011) 4 SCC 374** in the case of ***Bharat Sanchar Nigam Limited Vs. Ghanshyam Dass and others***, wherein it was held as follows :

“It is not necessary for every person to approach the court for relief and it is the duty of the authority to extend the benefit of a concluded decision in all similar cases without driving every affected person to court to seek relief. This principle would apply only in the following circumstances :

(a) where the order is made in a petition filed in a representative capacity on behalf of all similarly situated employees ;

(b) where the relief granted by the court is a declaratory relief which is intended to apply to all employees in a particular category, irrespective of whether they are parties to the litigation or not ;

(c) where an order or rule of general application to employees is quashed without any condition or reservation that the relief is restricted to the petitioners before the court; and



W.P.No.23646 of 2024

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(d) where the court expressly directs that the relief granted should be extended to those who have not approached the court.

On the other hand, where only the affected parties approach the court and relief is given to those parties, the fence-sitters who did not approach the court cannot claim that such relief should have been extended to them thereby upsetting or interfering with the rights which had accrued to others.”

7.The petitioners are not coming under any of the above principles to extend the same benefits which were granted by this Court to another employee. Further, a person who approached this Court and obtained relief cannot create a right for others who remained passive and did not approach the Court in time. The petitioner, being fence-sitters, did not approach this Court immediately after retirement seeking the increment. Further, if someone has been wrongly extended a benefit, that cannot be cited as precedent for claiming similar benefits by others. Hence the guarantee of equality before law under Article 14 is a positive concept and cannot be enforced in a negative manner. If any illegality or irregularity is committed in favour of any individual or group of individuals, others cannot invoke the jurisdiction of this Courts for perpetuating the same irregularity or illegality



W.P.No.23646 of 2024

has been their favour on the ground that they have been denied benefits which have been wrongly extended to others.

8. Further, the above facts were not brought to the notice of this Court and as such, this Court passed order on the strength of the order passed by the Hon'ble Supreme Court of India in the case of ***Director (Admn. And HR) KPTCL and others Vs. C.P.Mundinamani and Others*** reported in ***2023 SCC Online SC 401***. The Hon'ble Supreme Court of India held that 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. The word 'accrue' should be understood liberally and would mean payable on the succeeding day. However, the principles laid down in the above Judgment are not applicable to the case on hand, since the petitioners must satisfy not only the condition of the becoming entitled to the increment but also continue to be in service on the due date. Admittedly, all the petitioner were not in service on the respective due dates for claiming the increment. Therefore, they were not entitled to the increment for the relevant period. Further, they cannot be treated as retired after completion of due date in order to claim the increment.

8/11



W.P.No.23646 of 2024

9.In view of the above, the writ petition is devoid of merits and

is liable to be dismissed. Accordingly, this Writ Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

20.11.2025

Index:Yes/No

Neutral Citation/Yes/No

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W.P.No.23646 of 2024

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W.P.No.23646 of 2024

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Lpp

W.P.No.23646 of 2024

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