



2025:DHC:8426



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

Decided on 22.09.2025

+ **W.P.(C) 10011/2024**

PHOOL CHAND PRASAD

.....Petitioner

Through: Ms. Richa Kapoor, Ms. Udipti
Chopra, Mr. Harsh Gautam, Mr.
Sandesh Kumar, Advocates.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Raj Kumar Yadav, Ms. Rita,
Ms. Ratna Ujjwal, Ms. Anjali
Ahlawat, Advocates.
Mr. Arjun Mitra, Advocate for R4.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J (ORAL)

CM APPL. 46965/2025 (for early hearing)

As the writ petition itself was heard in part on 15.09.2025, this application has been rendered infructuous, and is disposed of.

W.P.(C) 10011/2024

1. By way of this writ petition under Article 226 of the Constitution of India, the petitioner, who retired on 30.06.2016 as a Technical Superintendent from the Indian Institute of Technology, Delhi ['IIT-D'], seeks the benefit of one notional increment that would have accrued to him on the day immediately following his retirement.

2. I have heard Ms. Richa Kapoor, learned counsel for the petitioner,



and Mr. Raj Kumar Yadav, learned counsel for the respondents – Union of India [“the Union”] and IIT-D.

3. The petitioner joined IIT-D as a Security Guard on 06.02.1984 and continued in service until 30.06.2016, when he attained the age of superannuation. At the time of his retirement, he was holding the post of Technical Superintendent in the Computer Science and Engineering Department, IIT-D.

4. The petitioner’s last annual increment took effect on 01.07.2015, and he would have become entitled to the next increment on 01.07.2016, i.e., the day immediately following his retirement. The petitioner sought a notional increment, for the purposes of computation of pension, by way of a representation to IIT-D on 22.05.2023. However, by a communication dated 10.08.2023, his request was rejected on the ground that no instructions in this regard had been issued by the Union to IIT-D.

5. The issue of an employee’s entitlement to a notional increment, which would otherwise have fallen due on the day immediately following the date of superannuation, is no longer *res integra*. The Supreme Court by a judgment dated 11.04.2023, in *KPTCL v. C.P. Mundinamani*¹, categorically held that such notional increment is to be granted for the purpose of computing pension. The Review Petition² filed against the said judgment was dismissed on 18.12.2024.

6. Further, in *Union of India & Anr. v. M. Siddaraj*³, the Supreme Court clarified the principles laid down in *C.P. Mundinamani*, including as to the manner in which the benefit was to be granted to third parties.

¹ (2023) 14 SCC 411; hereinafter “*C.P. Mundinamani*”.

² Review Petition (C) Diary No. 36418/2024 in Civil Appeal 2471/2023.



7. It is also an admitted position that the aforesaid judgments have been implemented by the Union through the issuance of Office Memorandums [“OM”], including OMs dated 14.10.2024 and 20.05.2025.

8. The position of the respondents in the present case, however, is that these OMs do not apply to IIT-D, as it is an autonomous institution. In the counter affidavit dated 01.09.2025, copies of communications dated 07.11.2024 and 10.07.2025 issued by the Union to IIT-D are annexed, which categorically state that the OM dated 14.10.2024 issued by the Department of Personnel and Training [“DoPT”], relating to notional increments, would not extend to autonomous bodies.

9. The respondents’ argument, therefore, rests on the characterisation of IIT-D as an autonomous institution not directly governed by the OMs of the Union. However, what remains undisputed is that, even within the framework of the employment relationship between the petitioner and IIT-D, the petitioner would have been entitled to an increment, on the day immediately following his retirement. The question to be considered, therefore, is whether the petitioner can be denied such a benefit, consistent with the principles laid down in *C.P. Mundinamani*, and *M. Siddaraj*, irrespective of the applicability of the OMs.

10. The relevant observations of the Supreme Court in *C.P. Mundinamani* are as follows:

“12. In the present case, the relevant provision is Regulation 40(1) of the Regulations which reads as under:

“40. Drawals and postponements of increments.—(1) An increment accrues from the day following that on which it is

³ Misc Appl. Diary No. 2400/2024 in Civil Appeal No. 3933/2023; hereinafter “*M. Siddaraj*”.



earned. An increment that has accrued shall ordinarily be drawn as a matter of course unless it is withheld. An increment may be withheld from an employee by the competent authority, if his conduct has not been good, or his work has not been satisfactory. In ordering the withholding of an increment, the withholding authority shall state the period for which it is withheld, and whether the postponement shall have the effect of postponing future increments.”

13. It is the case on behalf of the appellants that the word used in Regulation 40(1) is that an increment accrues from the day following that on which it is earned and in the present case the increment accrued on the day when they retired and therefore, on that day they were not in service and therefore, not entitled to the annual increment which they might have earned one day earlier. It is also the case on behalf of the appellants that as the increment is in the form of incentive and therefore, when the employees are not in service there is no question of granting them any annual increment which as such is in the form of incentive.

14. At this stage, it is required to be noted that there are divergent views of various High Courts on the issue involved. The Full Bench of the Andhra Pradesh [Principal Accountant-General, A.P. v. C. Subba Rao⁴] High Court, the Himachal Pradesh [Hari Prakash v. State of H.P.⁵] High Court and the Kerala [Union of India v. Pavithran K.⁶] High Court have taken a contrary view and have taken the view canvassed on behalf of the appellants. On the other hand, the Madras High Court in P. Ayyamperumal [P. Ayyamperumal v. Central Administrative Tribunal⁷] ; the Delhi High Court in Gopal Singh v. Union of India⁸; the Allahabad High Court in Nand Vijay Singh v. Union of India⁹; the Madhya Pradesh High Court in Yogendra Singh Bhadauria v. State of M.P.¹⁰; the Orissa High Court in Arun Kumar Biswal v. State of Odisha¹¹ ; and the Gujarat High Court in State of Gujarat v. Takhtsinh Udesinh Songara¹² have taken a divergent view than the view taken by the Full Bench [Principal Accountant-General, A.P. v. C. Subba Rao¹³] of the Andhra Pradesh

⁴ 2005 SCC OnLine AP 47.

⁵ 2020 SCC OnLine HP 2362.

⁶ 2022 SCC OnLine Ker 5922.

⁷ 2017 SCC OnLine Mad 37963.

⁸ 2020 SCC OnLine Del 2640.

⁹ 2021 SCC OnLine All 1090.

¹⁰ 2020 SCC OnLine MP 4654.

¹¹ 2021 SCC OnLine Ori 2368.

¹² 2022 SCC OnLine Guj 2522.

¹³ 2005 SCC OnLine AP 47.



High Court and have taken the view that once an employee has earned the increment on completing one-year service he cannot be denied the benefit of such annual increment on his attaining the age of superannuation and/or the day of retirement on the very next day.

15. Now so far as the submission on behalf of the appellants that the annual increment is in the form of incentive and to encourage an employee to perform well and therefore, once he is not in service, there is no question of grant of annual increment is concerned, the aforesaid has no substance. In a given case, it may happen that the employee earns the increment three days before his date of superannuation and therefore, even according to Regulation 40(1) increment is accrued on the next day in that case also such an employee would not have one-year service thereafter. It is to be noted that increment is earned on one-year past service rendered in a timescale. Therefore, the aforesaid submission is not to be accepted.

16. 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.

17. 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 timescale, 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 efficiency in the preceding one year.

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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.¹⁴”

11. The Supreme Court, thus, reconciled divergent views of various High Courts, in the context of a regulation of the employer, which provided that an increment accrues from the day following that on which it is earned. The Court held that an annual increment is not merely an incentive for future service, but a right earned by rendering service with good conduct during the preceding year. Accordingly, notwithstanding the “*accrual*” of the increment on the day after retirement, the Court held that an employee would nonetheless be entitled to it, having already earned it by virtue of past service. The Court further observed that any contrary interpretation would be arbitrary, as it would deprive a government servant of a benefit already earned, which, under the applicable regulation, could be withheld only by way of penalty for inefficiency.

12. In my view, there is no distinction in principle insofar as the case of an employee of IIT-D, such as the petitioner, is concerned.

13. An attempt has been made to draw a distinction on the ground that the judgment in *C.P. Mundinamani* turned upon the specific regulations of that employer, whereas there is no corresponding provision in the Institutes of Technology Act, 1961, or the Service Rules applicable to IIT-D’s employees. This contention, however, is wholly superficial. The relevant regulation in *C.P. Mundinamani* merely provided that an increment would “*accrue*” on the day following that on which it is

¹⁴ Emphasis supplied.



earned. Even in those circumstances, the Supreme Court extended the benefit of a notional increment to the retiring employee. Indeed, the counter affidavit dated 01.09.2025 filed on behalf of IIT-D itself demonstrates that the institution's understanding of the position is in *pari materia* with the regulation considered in *C.P. Mundinamani*. The relevant portion of the counter affidavit reads as follow:

*"4. The petitioner retired from IIT Delhi as a Technical Superintendent on 30.06.2016. **As per the applicable rules and regulations governing service conditions, annual increments are granted only upon the completion of one full year of service, with the increment becoming due on the first day of the following month.***

*5. The petitioner's last increment was granted on 01.07.2015. **The petitioner was due for the next increment on 01.07.2016**; however, he had already attained superannuation on 30.06.2016. As such, he ceased to be in service on the date when the increment would have been applicable.¹⁵"*

14. For the aforesaid reasons, I am of the considered view that the question of whether autonomous institutions are covered by the Office Memoranda issued by the Union, cannot be dispositive of the present matter. The legal principle enunciated by the Supreme Court in *C.P. Mundinamani*, as subsequently clarified in *M. Siddaraj*, squarely governs the petitioner's case. The petitioner's legal rights, as enunciated by the Supreme Court, cannot be curtailed by such an omission in the OMs.

15. The relief to which the petitioner is entitled must, therefore, be determined in the light of the judgment of the Supreme Court in *Union of India & Anr v. M. Siddaraj*¹⁶. By an order dated 06.09.2024, the Supreme Court issued the following directions:

"(a) The judgment dated 11.04.2023 will be given effect to in case of third

¹⁵ Emphasis supplied.

¹⁶ Civil Appeal No. 3933/2023; decided on 19.05.2023.



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.”¹⁷

16. The aforesaid direction (d) was modified on 20.02.2025 to the following extent:

“We are inclined to dispose of the present miscellaneous applications directing that Clauses (a), (b) and (c) of the order dated 06.09.2024 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:

“(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 for intervention/ impleadment/ writ petition/ original application was filed.”

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”¹⁸, as in such cases, clause (a) will

¹⁷ Emphasis supplied.

¹⁸ By way of a footnote, the Supreme Court has clarified that this reference is to judgment dated 19.05.2023 in Civil Appeal No. 3933/2023 [*Union of India & Anr. v. M. Siddaraj*] and other connected matters.



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apply.¹⁹

17. The petitioner has filed the present writ petition in July 2024, i.e. after the judgment dated 19.05.2023 referred to above. Clause (d) of the directions will, therefore, not apply to his case, which will instead be governed by Clause (a). The petitioner is accordingly entitled to payment of enhanced pension, i.e. pension payable computed by taking into account one notional increment, from 01.05.2023 onwards.

18. In view of the foregoing, the writ petition is allowed, and the respondents are directed to grant the petitioner one notional increment, for the purpose of computation of pension payable with effect from 01.05.2023, and to release the consequential arrears within a period of three months from today.

19. The next date of hearing, i.e. 21.11.2025, stands cancelled.

PRATEEK JALAN, J

SEPTEMBER 22, 2025

'Bhupi/sd'/'

¹⁹ Emphasis supplied.