

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.18379 OF 2024

Union of India & Ors.

.. Petitioners

Vs.

Mrs. Kamini M. Hazare

.. Respondent

...

Mrs. Neeta V. Masurkar, Advocate for the Petitioners

Ms. Annie Nadar, Advocate for the Respondent

**CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM ANKHAD, J.**

DATE : 26th MARCH 2026

P.C. :

Aggrieved by the order dated 12th March 2024, the Union of India has filed this writ petition to challenge the direction issued by the Tribunal in Original Application No.406 of 2020.

2. The Tribunal has issued the following directions:

"i. The impugned Memorandum dated 4.2.2020 (Annexure A-1) and communication/order dated 27.12.2017 (Annexure A-2) are set aside;

ii. The respondents are directed to consider the claim of the applicant for revision of her pay in the scale of pay in PB-3 + Grade Pay Rs. 5400/- w.e.f. 01.01.2006, upon completion of 24 years of service as per the provisions of the ACP Scheme and the recommendations of the VIth CPC, as has already been granted to her juniors vide order dated 18.01.2016, and also her claim of grant of pay scale of PB-3 + Grade Pay Rs. 6600/-, as 3rd Financial Upgradation under the MACP Scheme upon completion of 30 years of service and to pass necessary order(s) in this regard;

iii. The applicant shall be entitled to all consequential benefits ie. Pay Fixation, Pension Fixation, Arrears of pay and allowance, arrears of pension, arrears of gratuity, Leave Encashment and other retiral dues, etc. in accordance with the relevant rules on the subject;

iv. The applicant shall also be entitled for interest on arrears of pension and other retiral dues accordingly at the rate as applicable

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to the GPF;

v. The respondents shall comply with the aforesaid directions as expeditiously as possible and preferably within 10 weeks of receipt of a copy of this Order."

3. In the order dated 12th March 2024, the Tribunal referred to the letter dated 15th April 2015 under which a clarification was issued from the office of Registrar General of India to the effect that the government employees working in Grade-B and as Senior Supervisor shall be entitled to 2nd Assured Career Progression (ACP) benefits in Grade Pay of Rs.5400/- provided they complete 24 years of service between 1st January 2006 to 31st August 2008. Mrs. Neeta V. Masurkar, the learned counsel for the Union of India submits that the respondent completed 24 years of service on 31st December 2005 and, therefore, she is not entitled for Grade Pay of Rs.5400/-, which is admissible from 1st January 2006.

4. In "*Director (Admn. and HR) KPTCL & Ors. v. C. P. Mundinamani & Ors.*" (2023) 14 SCC 411, the primary issue framed was whether a government employee who has completed the requisite period of one year of service with good conduct but retires a day before the formal date of annual increment is entitled to receive the increment. The case also raised the question of the legal effect of the provision stating that an increment "accrues" on the day following the completion of the qualifying service period and whether denial of the increment on this technical ground would amount to arbitrariness or violation of the principle of equality under Article 14 of the Constitution of India. Essentially, the issue for determination was whether an earned increment is a substantive right of the employee which can be denied by mere retirement on the day preceding the formal entitlement. The Hon'ble Supreme Court held as under:

"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.”

5. This is not in dispute that the respondent has been granted 3rd financial upgradation on 1st January 2012 on completing 30 years of regular service. After coming into force of ACP scheme, she was granted 2nd ACP benefits under the recommendations of the 6th Pay Commission in Grade Pay of Rs.4600 PB-2 vide order dated 14th October 2011. Having regard to the instructions issued in the letter dated 15th April 2015, the Tribunal issued a direction to consider the claim of the respondent for revision of her payscale w.e.f. 1st January 2006. There is no reason why the Court should interfere in the matter. Another reason is that the similarly situated employees who are juniors to the respondent have been given the benefit and the respondent was claiming the same benefit.

6. Writ Petition No.18379 of 2024 is dismissed.

[GAUTAM ANKHAD, J.]

[CHIEF JUSTICE]