



\$~178

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 13th May, 2026.

+ W.P.(C) 12738/2024

SH. RAJIV KUMAR SINGHPetitioner
 Through: Mr. A.K Roy, Advocate.

Versus

THE CHAIRMAN AND MANAGING DIRECTOR AND ORS
Respondents

Through: Mr. Shashank Singh, Mr. Arjun
 Minocha, Advocates for R-1 & 2.
 Mr. Kaustav Som, Mr. Arpit Lahoti,
 Advocates for R-5.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The Petitioner joined IRCON International Ltd. ["IRCON"] after moving from another Central Public Sector Enterprise ["CPSE"], namely Bharat Heavy Electricals Ltd. ["BHEL"], through proper channel with pay protection. His grievance, for which he has instituted the present writ petition, concerns his claim for grant of annual increments with effect from 1st June, 2018 and 1st June, 2019 during his service in IRCON. IRCON has declined to charge these increments on the ground that the Petitioner did not complete his probation period before leaving service.

Facts



2. The Petitioner joined BHEL on 30th August, 1995. At the relevant time, he was serving as Deputy General Manager (HR), Grade E-6. On 7th November, 2017, BHEL issued a No Objection Certificate permitting him to appear for interview for the post of Additional General Manager (HRM) in IRCON. The NOC also records his service particulars in BHEL, including his designation and pay scale.

3. IRCON issued the Petitioner an offer of appointment dated 17th November, 2017 for the post of Additional General Manager/HRM, which *inter alia* provided as follows:

“You will be governed by IRCON’s service rules and administrative orders as issued/amended from time to time.”

*“You will be on probation for a period of **Two Years** from the date of appointment. The probation can be extended for unsatisfactory performance, prolonged illness or absence from duty or for similar other reasons. You will continue to be on probation till a specific order for clearance of probation is issued. During the period of probation, the appointment can be terminated at any time without any reason being assigned.”*

4. The aforesaid offer letter also required the Petitioner to execute a bond of INR 3 lakhs to serve IRCON for a minimum period of three years.

5. The Petitioner was relieved by BHEL on 28th February, 2018 and joined IRCON on 1st March, 2018. His basic pay was fixed at INR 1,46,070/- in the IDA scale of INR 1,00,000-2,60,000/-. IRCON Office Order No. 664/2018 dated 5th October, 2018 records that the Petitioner’s basic pay at the time of joining stood fixed at INR 1,46,070/-. The said office order further states: *“His increment will be charged on successful completion of probation period”*.

6. IRCON thereafter issued a certificate dated 24th September, 2019 recording that the Petitioner was working as General Manager/HRM, that



his basic pay at the time of joining IRCON had been fixed at INR 1,46,070/- , and that his annual increment date stood protected. The relevant portion of the aforesaid certificate reads as under:

“The date of his annual increment in this Company is protected and accordingly his first increment @ 3% will be effective from 01.06.2018 and the subsequent increment will be effective from 01.06.2019. These increments will be charged on successful completion of probation period.”

7. The Petitioner subsequently resigned from IRCON upon selection in Grid Controller of India Limited [“Grid India”], formerly Power System Operation Corporation Ltd. [“POSOCO”]. IRCON accepted his resignation by Office Order No. 569/2019 dated 23rd October, 2019. The same order also accepted his request for transfer of the remaining bond period of 1 year, 2 months and 14 days to Grid India and adjusted the shortfall of six days in the notice period against his Earned Leave Account. The Petitioner was relieved from IRCON on 18th December, 2019 and joined Grid India on 19th December, 2019 in the scale of INR 1,20,000-2,80,000/-.

8. It is not in dispute that the Petitioner’s probation period in IRCON was to continue till 1st March, 2020 and that no order clearing probation was issued before the Petitioner left IRCON. It is also not in dispute that the Petitioner served IRCON from 1st March, 2018 till 18th December, 2019 and that the dates 1st June, 2018 and 1st June, 2019 fell during his tenure in IRCON.

9. The Petitioner thereafter addressed representations to IRCON. By certificate dated 8th May, 2024, IRCON reiterated that the Petitioner’s basic pay had been fixed at INR 1,46,070/- and that his annual increment date stood fixed as 1st June. The certificate further recorded that the two increments falling due on 1st June, 2018 and 1st June, 2019 “couldn’t be



charged” on his basic pay due to non-completion of probation in terms of IRCON probation policy, and that the notional increments were not payable because his probation had not been cleared in IRCON.

10. Grid India’s inter-office memorandum dated 23rd August, 2024 records that the Petitioner’s last drawn basic pay in IRCON was protected upon his joining Grid India and his pay was fixed at INR 1,46,070/-. He was also informed that his residual bond period and other service-related benefits were transferred to Grid India and his increment date was also protected. The memorandum further records that the two increments had not been added because they had not been charged by IRCON, while leaving the matter open for re-examination in the event IRCON were to take a favourable decision on the Petitioner’s representation.

11. The Petitioner’s Annual Performance Reports [*“APRs”*] have also been placed on record. For the year 2018-19, the Appraiser graded the Petitioner as *“Outstanding”*, while the Accepting Authority recorded the grading as *“Very Good”*; his integrity was certified as *“Beyond Doubt”*. For the year 2019-20, the Petitioner was graded *“Very Good”*; his integrity was again recorded as *“Beyond Doubt”*; and the Appraiser described him as *“sincere and hard working”*.

Petitioner’s Contentions

12. In support of the petition, Mr. A.K. Roy, counsel for the Petitioner, makes the following submissions:

12.1. The impugned action proceeds on a mistaken equation between probation and annual increment. Probation tests suitability for confirmation or continuance in service. Annual increment, however, is earned by rendering service for the prescribed period with good conduct, unless the



governing rule expressly postpones or denies it in a manner consistent with the governing pay revision framework.

12.2. The Petitioner does not seek confirmation in IRCON, nor does he challenge IRCON's authority to place him on probation. The dispute is confined to pay fixation and the consequential denial of annual increments which fell due during his tenure in IRCON.

12.3. The Petitioner did not leave IRCON casually or in breach of discipline. He moved from one CPSE to another through proper channel. IRCON accepted his resignation, transferred the residual bond period, adjusted the notice period shortfall from earned leave and permitted other service benefits to follow him. Having treated the movement as a proper CPSE-to-CPSE transition for all other purposes, IRCON could not isolate the annual increments and deny them as though the Petitioner had forfeited continuity of service.

12.4. IRCON's letter dated 24th September, 2019 contains a clear acknowledgment that the Petitioner's increment date stood protected and that the first and second increments would be effective from 1st June, 2018 and 1st June, 2019 respectively. Once the increments were acknowledged as effective from those dates, IRCON could not convert them into a contingent benefit dependent upon a later event, namely formal clearance of probation.

12.5. The offer of appointment did not disclose any condition that annual increments falling due during probation would be denied, deferred or kept in abeyance. The alleged probation-linked restriction was neither expressly incorporated in the offer of appointment nor otherwise communicated to the Petitioner prior to his joining IRCON. The general clause incorporating IRCON's service rules cannot be used to defeat an earned pay incident



under the DPE pay revision framework and IRCON's own pay revision circular.

12.6. Annual increment under the DPE pay revision framework constitutes a uniform and binding component of pay revision applicable across CPSEs. Reliance is also placed on IRCON Circular No. 75/2017 dated 13th December, 2017, Clause 3 whereof provides for annual increment at the uniform rate of 3% of basic pay. IRCON could not, through an internal probation policy, carve out an exception withholding increments in the absence of any Presidential Directive or DPE instruction authorising such exclusion. IRCON has not placed any material on record to show that the DPE framework permitted denial of annual increment on the ground of non-clearance of probation.

12.7. Reliance is placed on *Director (Administration and Human Resources), KPTCL & Ors v. C.P. Mundinamani & Ors.*¹, to contend that the Supreme Court recognised annual increment as accruing upon rendering the requisite service with good conduct, unless validly withheld under the governing rules. The principle applies here because two increments fell due during actual service rendered in IRCON and there was no adverse material in the APR record. The impugned denial, though not formally described as punishment, is stated to operate in substance as withholding of increments with cumulative effect.

12.8. Grid India granted the Petitioner annual increment with effect from 1st June, 2020 while he was still on probation, thereby demonstrating that probation and annual increment are treated independently in CPSE service practice. This renders IRCON's interpretation internally inconsistent with



the broader CPSE framework governing pay revision and increment accrual. 12.9. The denial has continuing financial and professional consequences. The basic pay carried to Grid India remained INR 1,46,070/-. Each subsequent increment, pay fixation and retiral benefit would stand depressed because the two annual increments were not charged by IRCON. The depressed pay fixation is also stated to adversely affect future career progression and candidature for Board-level posts in CPSEs. The petition, therefore, is not barred by laches.

IRCON's Contentions

13. On the other hand, Mr. Shashank Singh, counsel appearing for Respondents No. 1 and 2, opposes the petition and submits as follows:

13.1. The Petitioner entered service on terms which were neither uncertain nor undisclosed. The offer of appointment dated 17th November, 2017 expressly provided that he would be governed by “*IRCON's service rules and administrative orders as issued/amended from time to time*”. It also stipulated that he would remain on probation for two years from the date of appointment, that probation could be extended in the circumstances mentioned in the offer, and that he would continue on probation until a specific order clearing probation was issued. The Petitioner accepted these conditions and joined IRCON on 1st March, 2018. Thus, the Petitioner cannot segregate the pay-related consequences of probation from the service regime under which he accepted appointment.

13.2. IRCON's probation policy is material. Reliance is placed on Circular No. 14/2012 dated 8th June, 2012, which provides that an employee placed on probation becomes due for increment upon successful completion of the

¹ 2023 SCC OnLine SC 401.



probation period. Circular No. 42/2017 dated 1st June, 2017 retained the earlier condition, and the revised probation policy issued under Circular No. 39/2019 dated 26th June, 2019 reaffirmed the same position. The probation policy formed part of the applicable service rules governing the Petitioner's appointment. Annual increment of a probationer is not an automatic addition to pay merely because the calendar date has arrived. The increment may fall due on that day, but it becomes chargeable only upon successful completion of probation.

13.3. The condition was not applied to the Petitioner for the first time after he left service. The Petitioner was repeatedly informed during his tenure that annual increments would be charged only upon successful completion of probation. Office orders dated 21st March, 2018, 20th July, 2018, 5th October, 2018 and 5th February, 2019 are relied upon to contend that the condition was consistently communicated to him. The letter dated 24th September, 2019, on which the Petitioner himself places reliance, also stated that although the increments would be effective from 1st June, 2018 and 1st June, 2019, they would be charged on "*successful completion of probation period*". Thus, the Petitioner had full notice of the governing condition and accepted the same without objection during his tenure in service.

13.4. The Petitioner resigned on 25th September, 2019 and was relieved on 18th December, 2019. His probation period was to conclude only on 1st March, 2020, and no order clearing probation had been issued before he left IRCON. Once the Petitioner voluntarily left before satisfying the condition upon which the increments could be charged, the two increments never ripened into an enforceable pay entitlement. The increments were not withheld by way of penalty, but they never became payable because the



condition precedent for charging them was never fulfilled. Further, the grievance was raised only in the year 2024, nearly five years after the Petitioner left IRCON. During his service in IRCON, he did not challenge either the office orders or the probation condition. This petition is therefore barred by delay, acquiescence and acceptance of the applicable service conditions.

13.5. The Petitioner's reliance on the DPE pay revision framework and IRCON Circular No. 75/2017 dated 13th December, 2017 is also disputed. The Petitioner was a below Board-level executive and that, under the DPE guidelines dated 5th August, 2005, the Board of Directors of a public sector enterprise has authority to regulate human resource matters concerning below Board-level executives. The probation policy forms part of the service rules framed in exercise of that authority. The Petitioner cannot rely upon his APR gradings to claim increments, since probation clearance is governed by the prescribed Interim Special Report ["ISR"] process and not by annual performance appraisals. Since the Petitioner left before completion of probation, the ISR process itself could not be initiated or completed.

13.6. The decision in ***C.P. Mundinamani*** is inapplicable to the facts of the present matter.

Issues for Determination

14. On the pleadings and submissions, the following issues arise for determination:

- (i) Whether the writ petition is liable to be dismissed on the ground of delay and laches.
- (ii) Whether the annual increments referable to 1st June, 2018 and 1st June, 2019 accrued upon rendering service during the Petitioner's tenure in



IRCON, or whether they became chargeable only upon successful completion of probation.

(iii) Whether IRCON's probation policy linking charging of annual increment with successful completion of probation governs the Petitioner's claim notwithstanding the DPE pay revision framework and IRCON Circular No. 75/2017 dated 13th December, 2017.

(iv) Whether the Petitioner's movement from IRCON to another CPSE through proper channel, along with transfer of the residual bond period and protection of service-related benefits, has any bearing on his claim for annual increments.

(v) If the Petitioner is found entitled to relief, whether such relief should extend to actual arrears, notional pay fixation, consequential refixation by Grid India, interest, or any combination thereof.

Discussion & Analysis

Delay and Laches

15. IRCON's objection founded on delay and laches requires consideration. The Petitioner was aware, at least from the office orders issued during his tenure and, in any event, from the letter dated 24th September, 2019, that IRCON proposed to charge the increments only upon "*successful completion of probation period*". He did not approach the Court at that stage. The objection, therefore, cannot be dismissed merely by stating that the claim relates to pay.

16. At the same time, the present case is not a belated challenge to a concluded event such as termination, selection, promotion or seniority. The grievance concerns the Petitioner's pay fixation. His case is that the last basic pay drawn in IRCON ought to have reflected the two annual



increments falling due on 1st June, 2018 and 1st June, 2019, and that the omission has travelled into his subsequent pay fixation in Grid India. If that premise is correct, the financial implication is not confined to the original dates; it is reflected in every later computation of pay and, ultimately, in retiral benefits.

17. In *M.R. Gupta v. Union of India & Ors.*², the Supreme Court held that a grievance relating to pay fixation contrary to the applicable rules constitutes a continuing wrong, giving rise to a recurring cause of action each time salary is computed and paid on the basis of a wrong fixation. In *Union of India & Ors. v. Tarsem Singh*³, the Supreme Court reiterated the distinction between a continuing wrong and the continuing effect of a concluded wrong, while recognising that claims relating to pay fixation or pension may still be examined despite delay, though consequential relief in the form of arrears may justifiably be restricted. Applying those principles, the writ petition cannot be rejected at the threshold on the ground of laches.

18. Accordingly, the petition cannot be rejected at the threshold on the ground of delay and laches. The objection of delay will, however, bear upon relief, particularly on interest and arrears. Issue (i) is answered accordingly.

Accrual of Annual Increment, Effect of Probation Policy and Movement through Proper Channel

19. The answer to the principal controversy must begin with IRCON's own communication dated 24th September, 2019. The letter does not treat the Petitioner's claim to annual increments as non-existent. It records, first, that the date of annual increment stood protected. It then states that the first

² (1995) 5 SCC 628.

³ (2008) 8 SCC 648.



increment at the rate of 3% “*will be effective from 01.06.2018*” and the subsequent increment “*will be effective from 01.06.2019*”. The qualification added thereafter is that these increments “*will be charged on successful completion of probation period*”. The document, therefore, separates the effective date of the increments from the act of charging them in pay.

20. That distinction demonstrates that IRCON recognised the increment dates, the rate of increment and the points of time from which the increments were to operate. It did not state that the Petitioner had failed to render the requisite service during the relevant period. It did not disclose any reason connected with inefficiency, doubtful integrity, unsatisfactory performance or misconduct. The only reason disclosed in the record was that formal probation clearance had not been issued. The real question, therefore, is not whether IRCON could regulate probation. It is whether, after recognising the increments as effective from past dates, IRCON could permanently refuse to charge them only because the Petitioner moved to another CPSE before the probation period ended.

21. The DPE pay revision framework and IRCON Circular No. 75/2017 dated 13th December, 2017 must also be considered in their proper context. Clause 3 of the aforesaid circular provides that a uniform rate of 3% of basic pay would apply both to annual increment and to promotion increment. The circular implements the revised IDA pay structure for Board-level and below Board-level executives and staff with effect from 1st January, 2017. Nothing in Clause 3 makes annual increment conditional upon formal confirmation or probation clearance.

22. IRCON’s probation policy, however, cannot be ignored. The Petitioner accepted appointment subject to IRCON’s service rules and



administrative orders. The probation policy relied upon by IRCON provides that an employee placed on probation becomes due for increment upon successful completion of the probation period. This Court is not holding that such a condition is invalid in every situation. A public sector employer may prescribe probation, extend it for unsatisfactory performance, withhold confirmation where the record so warrants, or terminate a probationer in accordance with the terms of appointment. It may also regulate the timing of payment of increments during probation, provided the rule is clear and operates consistently with the governing pay structure.

23. The difficulty lies in the application of the policy in the present case. IRCON has not merely postponed the charging of the increments during a subsisting probation. It has used the Petitioner's departure before formal probation clearance to deny, for all time, two increments which its own communication had recognised as effective from 1st June, 2018 and 1st June, 2019. That consequence is materially different from a temporary deferment. It permanently depresses the Petitioner's last pay in IRCON and, consequently, travels into his subsequent pay fixation in Grid India. Such a consequence requires a clear contractual or regulatory foundation.

24. The Petitioner's movement to Grid India is also relevant. This was not a case where the employee left IRCON in breach of service conditions or without the knowledge of the employer. IRCON accepted his resignation, permitted transfer of the residual bond period of 1 year, 2 months and 14 days, and adjusted the shortfall in notice period from his Earned Leave Account. Grid India, in its inter-office memorandum dated 23rd August, 2024, also recorded that the Petitioner's application had been forwarded through proper channel, his residual bond period and related service benefits



had been transferred, and his increment date stood protected. The only reason Grid India did not add the two increments was that IRCON had not charged them.

25. These facts make it difficult to accept IRCON's contention in its full sweep. The Petitioner cannot be treated as having forfeited every pay incident arising during his tenure merely because IRCON had not issued a formal order clearing probation before he moved to another CPSE. The consequence of IRCON's interpretation is significant: a senior executive may serve IRCON for nearly one year and nine months, move through proper channel to another CPSE, have his bond period and service-related benefits transferred, and yet lose two increments which IRCON itself recorded as effective from specified dates. Such a consequence requires a clear contractual or regulatory foundation. It cannot readily be inferred from a general probation clause when the pay revision circular and IRCON's own communication recognise the increment dates and the rate of increment.

26. The record does not disclose that the increments were withheld because of unsatisfactory work, inefficiency, doubtful integrity or misconduct. The APRs placed on record, though not a substitute for a probation clearance order, remains relevant to this limited extent. For the year 2018-19, the Appraiser graded the Petitioner as "*Outstanding*", while the Accepting Authority recorded the grading as "*Very Good*"; his integrity was certified as "*Beyond Doubt*". For the year 2019-20, the Petitioner was graded "*Very Good*"; his integrity was again recorded as "*Beyond Doubt*"; and the Appraiser described him as "*sincere and hard working*". If IRCON's case had been that the increments were denied on account of performance or conduct, the record would ordinarily be expected to disclose some material



to that effect. None does.

27. The Court is not persuaded by the Petitioner's submission that the denial must be treated as a major penalty in the strict disciplinary sense. No formal penalty order was passed, and IRCON does not profess to have acted by way of punishment. Its stated basis is the probation policy. The Petitioner is, however, right in submitting that the financial effect of the denial is comparable to a cumulative pay loss. Once two annual increments are not charged, the employee's basic pay remains lower for all subsequent pay calculations. For that reason, the rule relied upon to authorise such a result must be clear, applicable and consistent with the governing pay framework. On the present record, IRCON's reliance on the probation policy does not meet that standard.

28. The proper reading of the documents is therefore this: IRCON could insist that the Petitioner did not stand confirmed in its service, since he left before a formal order clearing probation was issued. It could also decline any claim for deemed confirmation. But it could not permanently refuse to charge annual increments which had fallen due, and which its own communication acknowledged as effective during the Petitioner's service, solely because formal probation clearance did not take place before his proper-channel movement to another CPSE.

29. Issues (ii), (iii) and (iv) are, thus, answered in favour of the Petitioner, with this clarification: IRCON's probation policy is not struck down in general. It is read as regulating confirmation and, at the highest, the timing of charging increments during continuing probation. It cannot be applied to permanently deny increments already earned and acknowledged as effective during the employee's actual service, where there is no adverse performance



or disciplinary material and the employee has moved to another CPSE through proper channel.

Applicability of Mundinamani

30. The Petitioner places considerable reliance on ***C.P. Mundinamani***. The Supreme Court in that case considered whether an employee who had rendered the requisite period of service, but retired on the day immediately preceding the date on which the increment became payable, could be denied the benefit of an annual increment. The Court observed that annual increment is earned for rendering service with good conduct during the specified period; therefore, ordinarily, once the employee has rendered the requisite service with good conduct, the increment stands earned.

31. IRCON is correct in submitting that ***C.P. Mundinamani*** did not arise in the context of probation. The Supreme Court there was not concerned with an employee who had left service before a formal order of probation clearance, nor with the effect of a probation policy deferring charging of increments till successful completion of probation. That decision, therefore, cannot be read as laying down that probation conditions are irrelevant in all matters concerning pay.

32. At the same time, ***C.P. Mundinamani*** explains the nature of annual increment. The decision proceeds on the basis that increment is earned for past service rendered with good conduct during the relevant period, and that withholding of increment is ordinarily associated with inefficiency or punishment. This principle assumes relevance here because IRCON does not deny the increments on any allegation of misconduct, inefficiency, doubtful integrity or unsatisfactory service. Its case rests solely on the absence of a formal probation-clearance order.



33. On the facts of the present case, the principle in *C.P. Mundinamani* supports the Petitioner to a limited extent. The increments claimed by the Petitioner related to dates falling during his tenure in IRCON, based on the protected increment date carried forward from his previous CPSE service. More importantly, IRCON itself recorded that the increments would be “effective” from 1st June, 2018 and 1st June, 2019, while deferring their charging till probation clearance. In the absence of any adverse service record, the mere fact that the Petitioner moved through proper channel to another CPSE before a formal probation-clearance order was issued cannot, in the facts of the present case, furnish sufficient basis to deny the increments altogether.

Conclusion & Relief

34. The Petitioner is not entitled to a declaration that he stood confirmed in IRCON. He left IRCON before completion of the probation period and before any order clearing probation was issued. Nor is such a declaration necessary for deciding the present dispute. The relief in this petition is, thus, confined to the pay consequences of the two annual increments claimed by the Petitioner.

35. For the reasons recorded above, the writ petition is allowed in the following terms:

(a) Office Order No. 664/2018 dated 5th October, 2018, the letter dated 24th September, 2019 and the certificate dated 8th May, 2024 are set aside to the limited extent they make charging of the Petitioner’s annual increments due on 1st June, 2018 and 1st June, 2019 dependent solely upon issuance of a formal order clearing probation by IRCON.

(b) IRCON shall refix the Petitioner’s basic pay by charging the annual



increment due with effect from 1st June, 2018 and the subsequent annual increment due with effect from 1st June, 2019. These increments shall be reckoned only for the purpose of pay fixation, last pay certification and consequential financial benefits. They shall not be treated as a declaration of confirmation, deemed confirmation, or completion of probation in IRCON.

(c) IRCON shall issue a revised pay fixation statement and revised last pay certificate as on 18th December, 2019, being the date on which the Petitioner was relieved from IRCON, within eight weeks from today.

(d) Arrears payable by IRCON for the period during which the Petitioner actually served IRCON shall be released within twelve weeks, after adjusting amounts already paid. No interest is awarded.

(e) Upon receipt of the revised pay fixation statement and revised last pay certificate from IRCON, the Petitioner may submit a representation to Grid India for consequential re-fixation. Grid India shall process such representation in accordance with its applicable rules and the revised certificate issued by IRCON, within eight weeks of receipt of the representation. Grid India shall not reject the claim merely on the basis of the earlier position that IRCON had not charged the increments.

(f) This Court has neither examined nor invalidated IRCON's probation policy in general. The present decision is confined to the application of that policy to the Petitioner's claim for the two annual increments which had been recorded by IRCON as effective from 1st June, 2018 and 1st June, 2019.

36. The writ petition is allowed and disposed of in the above terms.

SANJEEV NARULA, J

MAY 13, 2026/ab