(2024) 08 CAT CK 0015

In the Central Administrative Tribunal

Case No : Original Application No. 330, 942 Of 2024

Jagannath Chatterjee APPELLANT

Vs

Comptroller & Auditor General Of India, Indian Audit And Accounts Department, New Delhi. & Ors. RESPONDENT

Date of Decision : 24-08-2024

Acts Referred:
Administrative Tribunals Act, 1985 — Section 19

Citation : (2024) 08 CAT CK 0015

Hon'ble Judges : Om Prakash VII, Member (J)

Bench : Single Bench

Advocate : Arun Kumar Srivastava, Rakesh Kumar Srivastava

Final Decision : Allowed

Judgement

Om Prakash -VII, Member (J)

1. Heard Shri S J Ishtiaque, learned counsel for the applicant and Shri Rakesh Kumar Srivastava, learned counsel for the respondents.

2. Although the matter has been listed under the head of 'Fresh Admission' the same is heard and decided today itself with the consent of learned counsels appearing for both the parties.

3. This O.A. has been filed on 18.08.2024 by the applicant under Section 19 of the Administrative Tribunals Act, 1985 for the following main relief(s):-

"8.1 This Hon'ble Tribunal may be pleased to quash the impugned order dated 02.08.2024 passed by respondent No.4.

8.2 This Hon'ble Tribunal may be pleased to direct the respondents to grant the applicant one notional increment for the period from 01st July 2021 to 30th June 2022 for purposes of pension and pensionary benefits and accordingly re-fix his pension and pensionary benefits and pay the arrears along with admissible interest thereupon.

8.3. Any other relief which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case may be given in the favour of the applicants.

8.4 Award the costs of the original application in favour of the applicant".

4. It is submitted by the applicant's counsel that applicant was retired on 30.06.2022. One increment for the last year of service has not been granted while he was entitled to one notional increment for the last year of his service. He also placed reliance on the catena of judgments pronounced by the Supreme Court, High Court as well as the Tribunal and submitted that the present case may also be decided by this Tribunal in the light of the aforesaid judgments/ orders.

5. On the other hand, learned counsel for the respondents submits that the issue involved in this Original Application has already been set at rest by Apex Court. However, he submits that the applicant was not in service on the date of increment i.e. 01st July, 2022.

6. As far as the question of granting the notional increment is concerned, the law has been settled by the Supreme Court in the Director (Admn. and HR) KPTCL & Ors. vs. C.P. Mundinamani & Ors., (2023) SCC online S.C. 401 (Civil Appeal No. (s) 2471/2023 decided on 11.04.2023). The Supreme Court considered the divergent views of different High Courts on the issue:-

"Whether an employee who has earned the annual increment is entitled to the same despite the facts that he has retired on the very next day of earning the increment?"

7. The Supreme Court discussed the manner and importance of increment and observed that denying the benefit of annual increment which he has already earned while rendering a specified period of service with good conduct and efficiency in the last preceding year, would be punishing a person for no fault. The Supreme Court did not approve the contrary view taken by the Full Bench of Andhra Pradesh High Court and the view of Kerala and Himachal Pradesh, High Courts and approved the view of Madras, Allahabad, M.P., Orissa, and Gujrat High Courts. In para 6.7, the Supreme Court said:-

"6.7 Similar view has also been expressed by different High Courts, namely, the Gujarat High Court, the Madhya Pradesh High Court, the Orissa High Court and the Madras 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 efficiently 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 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. 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. We are in complete agreement with the view taken by the Madras High Court in the case of P.Ayyamperumal (supra); the Delhi High Court in the case of Gopal Singh (supra); the Allahabad High Court in the case of Nand Vijay Singh (supra); the Madhya Pradesh High Court in the case of Yogendra Singh Bhadauria (supra); the Orissa High Court in the case of AFR Arun Kumar Biswal (supra); and the Gujarat High Court in the case of Takhatsinh Udesinh Songara (supra). We do not approve the contrary view taken by the Full Bench of the Andhra Pradesh High Court in the case of Principal Accountant-General, Andhra Pradesh (supra) and the decisions of the Kerala High Court in the case of Union of India Vs. Pavithran (O.P.(CAT) No. 111/2020 decided on 22.11.2022) and the Himachal Pradesh High Court in the case of Hari Prakash Vs. State of Himachal Pradesh & Ors. (CWP No. 2503/2016 decided on 06.11.2020)."

8. Therefore, the controversy has been settled by the Supreme Court and it has been held that the increment payable from 01st July will also be payable to the applicant who was retired on 30th July because the increment is payable for the service, already rendered by the applicant.

8. Therefore, looking to the aforesaid certain position of the law, the Original Application is allowed and ordered:-

(i) Applicant is entitled for one notional increment for his last year of service;

(ii) The respondents are directed to issue the revised PPO in favour of the applicant within a period of four months and will pay the arrear within the aforesaid period of four months from the date of receiving the certified copy of this order otherwise the simple interest will also be payable at the rate of 6% per annum from the date of filing of this O.A. till the date of actual payment if eligible otherwise and have not been granted earlier.

9. M.A., if any also stand disposed of accordingly.

10. There shall be no order as to costs.