

**(2020) 08 MP CK 0229**

**In the Madhya Pradesh High Court**

**Case No : Writ Petition No. 2009 Of 2020**

Rajendra Kuamr Mahindra

APPELLANT

Vs

Managing Director And Others

RESPONDENT

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**Date of Decision :** 13-08-2020

**Acts Referred:**

**Citation :** (2020) 08 MP CK 0229

**Hon'ble Judges :** Sanjay Dwivedi, J

**Bench :** Single Bench

**Advocate :** Ajeet Kumar Singh, Anoop Nair

**Final Decision :** Allowed

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## **Judgement**

There are other connected petitions listed today involving the same issue. The petitioner in this petition has claimed that the issue involved has already been dealt with by the Division Bench and also by Single Bench of this Court, in which, they have answered the issue involved in this case, therefore, this petition is being decided in the light of the orders already passed by the Division Bench and also by Single Bench in other matters.

Before adjudicating the issue involved, the relevant facts are required to be mentioned hereinbelow;

That the petitioner was initially appointed on the post of Office Assistant Grade-III vide order dated 05.01.1981. On attaining the age of superannuation, he was directed to be retired w.e.f. 30.06.2016. The respondent/organization has adopted the scheme of the M.P. Pay Revision Rules, 2017 issued by the State Government vide order dated 12.01.2018 made effective w.e.f. 01.01.2016, applicable to the employees of the State Government. The petitioner has also opted to get the benefit of Pay Revision Rules, 2017 and annual increment was granted w.e.f. 01.07.2016. The petitioner since retired w.e.f. 30.06.2016, his next annual increment which was due on 01.07.2016 was not granted to him and the said benefit was denied as the petitioner got retired one day prior to the date

of granting annual increment.

Learned counsel for the petitioner submits that the Indore Bench of this High Court has already dealt with this issue in W.P. No.17676/2019 (Abdul Waheed Khan and others Vs. Madhya Pradesh Power Management

Company Limited and another) decided vide order dated 05.06.2020, in which, it is held that merely because the petitioners retired one day prior to the date of granting annual increment for the services rendered by the petitioners for the whole year, the same cannot be denied and the petitioners were found entitled to get the benefit of annual increment which was due on 01.07.2016. Thereafter, in another petition i.e. W.P. No.18030/2019 (Rajendra Prasad Tiwari Vs. The State of Madhya Pradesh and others), the writ Court has also decided the said issue relying upon a decision of Division Bench of Madras High Court passed in W.P. No.15732/2017 (P. Ayyamperumal vs. The Registrar, Central Administrative Tribunal and others), which was further assailed before the Supreme Court and was affirmed by the Supreme Court by dismissing the SLP i.e SLP No.22283/2018 (Union of India & Ors. vs. P. Ayyamperumal).

The order of writ Court was further assailed by filing a writ appeal i.e. W.A. No.363/2020 (State of Madhya Pradesh and others vs. Rajendra Prasad Tiwari) and the Division Bench of this Court has dismissed the same upholding the view taken by the writ Court in W.P. No.18030/2019. The present petitioner, therefore, has claimed that this Court has no other option but to follow the view taken by the Division Bench of this Court.

However, learned counsel for the respondents has opposed the contentions made by the learned counsel for the petitioner and submits that the judgment passed by the Division Bench in Writ Appeal No.363/2020 is per incuriam as the Division Bench has not considered the earlier decision of Division Bench deciding the same issue and therefore, the judgment of Division Bench is not applicable.

However, I am not convinced with the contentions raised by learned counsel for the respondents because the Division Bench and also of writ Court have considered the decision of Division Bench of Madras High Court, which had been assailed by filing SLP before the Supreme Court, which was dismissed by the Supreme Court upholding the view of writ Court, therefore, this Court has no option, but to follow the view taken by the Division Bench of this Court.

Accordingly, as per the view taken by the Division Bench in Writ Appeal No.363/2020, this petition is allowed directing the respondents to grant the benefit of annual increment to the petitioner which fell due on 01.07.2016 and accordingly the retiral dues of the petitioner be revised and arrears whatever is calculated, be also paid to him within a period of three months from the date of submitting the certified copy of this order.

The petition filed by the petitioner stands allowed with the aforesaid directions.