(2024) 11 SHI CK 0050

In the High Court Of Himachal Pradesh

Case No : CWP No. 4373 Of 2024

Shri Babu Ram Thakur — APPELLANT

Vs

State Of Himachal Pradesh And Others — RESPONDENT

Date of Decision : 05-11-2024

Acts Referred:

Citation : (2024) 11 SHI CK 0050

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Lalit Kumar Sehgal, Pushpinder Jaswal, Tek Ram Sharma

Final Decision : Disposed Of

Judgement

Ajay Mohan Goel, J

1. With the consent of the parties, this petition is being disposed of, at this stage.

2. By way of this writ petition, the petitioner has, inter alia, prayed for the following reliefs:-

"The petitioner may kindly be held entitled for the annual increment @ about Rs. 1572/-, which was due on 01.11.2021 and the respondents may kindly be directed to grant the annual increment @ about Rs. 1572/-, to the petitioner w.e.f. 01.11.2021 with all consequential benefits and accordingly to revise the pension and pensionary benefits of the petitioner and to release the arrears to the petitioner with interest, in the interest of law, justice and fairplay."

3. The case of the petitioner is that he was appointed as a Clerk in the Education Department and he joined as such on 07.02.1985. After gaining various promotions, he superannuated from the post of Superintendent Gr.II on 31. 10.2021. The grievance of the petitioner is that the annual increment, which was due on 01.11.2021, has been denied to him on the ground that as on the day when the increment was due, the petitioner was not in service.

4. Learned counsel for the petitioner has submitted that the act of the respondents of not granting increment to the petitioner on the ground that the petitioner had superannuated from service as on the day when the increment fell due, is bad in law, for the reason that as increment is given for the good conduct of an employee for rendering an year’s service, the same could not have been denied to him, simply on the ground that as on the date, when the increment fell due, the petitioner had superannuated. Learned counsel submitted that the increment was a result of the hard work that the petitioner had put in, in the year preceding the date, when the increment was due and further as the issue is not more res integra in the light of the judgment of the Hon’ble Supreme Court of India in The Director (Admn. and HR) KPTCL & Ors. Vs. C.P. Mundinamani & Ors., 2023 SCC online SC 401, decided on 11.04.2023, therefore, the petition be allowed, as prayed for.

5. Learned Additional Advocate has submitted that it is a matter of record that the petitioner retired on 31.10.2021 and the increment fell due on 01.11.2021, however, as the petitioner had already superannuated as on the day, when the increment was due, therefore, there is no illegality in the act of the respondents of not granting the annual increment to the petitioner.

6. Having heard learned counsel for the parties and having gone through the pleadings as well as documents appended therewith as also the judgment of the Hon’ble Supreme Court of India relied upon by learned counsel for the petitioner, this Court is of the considered view that denial of increment to the petitioner simply on the ground that he superannuated one day before the increment was due is not sustainable in law.

7. In terms of the judgment of the Hon’ble Supreme Court of India referred to hereinabove, the increment is earned by an employee on account of the service which he renders in the preceding year before the increment is actually granted to an employee. This means that it was the conduct of the petitioner w.e.f. 01.11.2020 upto 31.10.2021, which was relevant for the purposes of the conferment of increment for his work and conduct for this particular calendar year, which the employer was to confer upon the petitioner on 01.11.2021. Because, the petitioner superannuated on 31.10.2021 and was not in service from 01.11.2021, the same has been denied to him.

8. This Court is of the considered view that in light of the judgment of the Hon’ble Supreme Court in The Director (Admn. and HR) KPTCL & Ors. Vs. C.P. Mundinamani & Ors. (supra), the denial of the increment to the petitioner on the ground that the petitioner superannuated a day before the increment was due is not sustainable in the eyes of law. The petitioner rendered the service for the complete calendar year, which was relevant and was to be construed for the purpose of the conferment of the increment. It is not the stand of the respondents that on account of his work and conduct in the preceding calendar year, the petitioner was not entitled for the grant of the increment. Therefore, simply because the petitioner superannuated a day before the increment was

due, the increment could not have been denied to the petitioner.

9. Accordingly, this writ petition is allowed. The act of the respondents of denying increment to the petitioner which was to fall due on 01.11.2021 on the ground that the petitioner superannuated on 31.10.2021 is declared to be bad and respondents are directed to confer the increment which was due to the petitioner on 01.11.2021 on account of the work performed by him w.e.f. 01.11.2020 to 31.10.2021 with consequential benefits. Pending miscellaneous application(s), if any, also stand disposed of accordingly.