

(2023) 04 DEL CK 0178

In the Delhi High Court

Case No : Civil Writ Petition No. 5446 Of 2023

Surender Singh Dalal

APPELLANT

Vs

Union Of India & Anr.

RESPONDENT

Date of Decision : 28-04-2023

Acts Referred:

Citation : (2023) 04 DEL CK 0178

Hon'ble Judges : Suresh Kumar Kait, J; Neena Bansal Krishna, J

Bench : Division Bench

Advocate : S.S. Dalal Yogesh Saini, Raj Kumar, Mimansak Bhardwaj

Final Decision : Disposed Of

Judgement

CM APPL. 21306/2023 (exemption)

1. Allowed, subject to all just exceptions.
2. The application is accordingly disposed of.

W.P.(C) 5446/2023

3. Present petition has been filed seeking directions to the respondent no.2 to grant one notional increment w.e.f. 01.07.2020 for the purpose of pensionary benefits only and further direct the respondents to refix the pensionary benefits of the petitioner and to release the arrears of pension.

4. Learned counsel appearing on behalf of the petitioner submits that the issue raised in the present petition is no longer res integra and has been decided by Madras High Court in W.P.(C) 15732/2017 titled as P. Ayyamperumal vs. The Registrar (C.A.T.) & Ors. wherein vide order dated 15.09.2017 held as under:

"6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its

Secretary to Government, Finance Department and others vs. M.Balasubramaniam, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2022 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs."

5. The said judgment was challenged by the Central Government before the Hon'ble Supreme Court vide SLP(C) Diary No.22283/2018 and vide order dated 23.07.2018, the same was dismissed.

6. The petition before us is of a retired Central Government employee and the rule applicable is CCS(Pension) Rules, 1972, therefore, the present petitioner is similarly situated to the relief granted by the Madras High Court which has been upheld by the Hon'ble Supreme Court.

7. Though counsel for the petitioner has approached through the present petition, however, we are of the considered opinion that the issue already decided by the Madras High Court which has been upheld by the Hon'ble Supreme Court is applicable in case of the petitioner and on all similarly situated persons.

8. Accordingly, we hereby dispose of the present petition by giving directions to the respondents to grant benefit to the petitioner as was granted by the Madras High Court and upheld by the Hon'ble Supreme Court as well as to all similarly situated persons.

9. In view of above, petition is disposed of.