

Apex Court allows grant of one annual increment which employees earn one day prior to their retirement on attaining the age of superannuation

Reference: The Supreme Court Judgement, Civil Appeal No. 2471 of 2023 (@ SLP (C) No. 6185/2020)

The Supreme Court gave the judgement in complete agreement with the Karnataka High Court's Division Bench which has rightly directed the appellants (KARNATAKA POWER TRANSMISSION CORPORATION LIMITED-KPTCL) to grant one annual increment which the original writ petitioners earned on the last day of their service for rendering their services preceding one year from the date of retirement with good behaviour and efficiently.

1) BRIEF

1.1) Reasons argued for denial of increment

- a) There are divergent views of different High Courts on the issue.
- b) An increment accrues from the day following that on which it is earned.
- c) When the right to get the increment is accrued the employee must be in service.
- d) The day on which the increment accrued the respective employees were not in service.
- e) The annual increment is in the form of a good service and it is an incentive so that the concerned employee may serve effectively and may render good services.
- f) Since employees are not in service, there is no question of grant of any annual increment which as such is in the form of incentive to encourage the employee for better performance.

1.2) Reasons argued for eligibility for increment

- a) Employees who earned the annual increment for rendering one year service prior to their retirement cannot be denied the benefit of the annual increment which they actually earned, solely on the ground that they retired on attaining the age of superannuation on the very next day.
- b) An increment may be withheld from an employee by the competent authority, if his conduct has not been good, or his work has not been satisfactory.
- c) Once an employee has earned the increment on completing one year service he cannot be denied the benefit of annual increment on his attaining the age of superannuation and/or the day of retirement on the very next day.
- d) The argument of annual increment is in the form of incentive and to encourage an employee to perform well and therefore, once he is not in service, there is no question of grant of annual increment is concerned, has no substance. It is to be noted that increment is earned on one year past service rendered in a time scale.
- e) Increments are given annually to officers with good conduct unless such increments are withheld as a measure of punishment or linked with efficiency.

- f) Merely because, the government servant has retired on the very next day, he can not be denied the annual increment.
- g) The central government servant retiring on 30th June has already completed a year of service and the increment has been earned provided his conduct was good. It would thus be wholly arbitrary if the increment earned by the central government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable.”

2) The Supreme Court considered divergent various high courts.

2.1) Judgments against grant of increment - The Supreme Court do not approve the view taken by the

- a) Full Bench of the Andhra Pradesh High Court in the case of Principal Accountant-General, Andhra Pradesh.
- b) 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
- c) 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).

2.2) Judgments for grant of increment

The Supreme Court in its judgement given the following points

- a) It would lead to arbitrariness 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.
- b) 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.
- c) 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.
- d) 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.
- e) The Supreme Court was in complete agreement with the view taken by the Madras High Court in the case of P.Ayyamperumal and the decisions of following High Courts
 - i. The Delhi high Court in the case of Gopal Singh Vs. Union of India and Ors. (Writ Petition (C) No. 10509/2019 decided on 23.01.2020).
 - ii. The Allahabad High Court in the case of Nand Vijay Singh and Ors. Vs. Union of India and Ors. (Writ A No. 13299/2020 decided on 29.06.2021).

- iii. The Madhya Pradesh High Court in the case of Yogendra Singh Bhadauria and Ors. Vs. State of Madhya Pradesh.
- iv. The Orissa High Court in the case of AFR Arun Kumar Biswal Vs. State of Odisha and Anr. (Writ Petition No. 17715/2020 decided on 30.07.2021) and
- v. the Gujarat High Court in the case of State of Gujarat Vs. Takhtsinh Udesinh Songara (Letters Patent Appeal No. 868/2021)

The Supreme is in complete agreement with the Division Bench of the Karnataka High Court which has rightly directed to grant one annual increment to the original writ petitioners earned on the last day of their service for rendering their services preceding one year from the date of retirement with good behaviour and efficiently.

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