

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 600 of 2022 (S.B.)

Wasudeorao Bapuji Virulkar,
Aged about 61 years, Occ. Ret. Asso. Professor,
R/o 6A-Bhagyashri Colony, near Siddhivinayak Nagar,
Amravati.

Applicant.

Versus

- 1) State of Maharashtra through its Secretary
Higher and Technical Education Department,
Maharashtra State, Mantralaya, Mumbai.
- 2) Director, Technical Education,
Maharashtra State, Mumbai office at
Directorate of Technical Education, 3,
Mahapalika Marg, Opposite Metro Cinema,
Dhobi Talav, Chhatrapati Shivaji Terminus Area,
Fort, Mumbai-400 001.
- 3) Govt. Engineering College, Amravati
through its Incharge Principal, V.M.V. Road,
Amravati, Tq. & Dist. Amravati.

Respondents.

Shri P.S. Patil, Advocate for the applicant.

Shri V.A. Kulkarni, learned P.O. for the respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 02/01/2023.

JUDGMENT

Heard Shri P.S. Patil, learned counsel for the applicant and
Shri V.A. Kulkarni, learned P.O. for the respondents. The matter is decided
finally with the consent of learned counsel for both the parties.

2. The applicant was working as a Lecturer in the Government Engineering College, Chandrapur. Thereafter he was appointed as Associate Professor after selection by the Maharashtra Public Service Commission (MPSC). He was transferred to Amravati. The applicant came to be retired on 30/06/2021. The applicant was not granted increment which falls due on 1st July of that year. Hence, he approached to this Tribunal.

3. The learned counsel for the applicant has pointed out the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.14632/2021 with connected W.Ps., decided on 04/05/2022. The Hon'ble Bombay High Court, Bench at Aurangabad relying on the decision of Hon'ble Madras High Court in Writ Petition No.15732/2017 which was confirmed by the Hon'ble Supreme Court in SLP No.22283/2018 has held that the employee who retires on 30th June is entitled for increment which falls due on 1st July of that year. The material observation of Hon'ble Bombay High Court, Bench at Aurangabad in para-3 is reproduced below -

*"3. This Court had based it's order dated 24th June, 2021, on the conclusions arrived at by the learned Division Bench of the Madras High Court on 15.09.2017 in Writ Petition No.15732/2017 filed by **P.Ayyamperumal Vs. The Registrar, Central Administrative Tribunal and others**. We had referred to the said judgment in our order dated 24.06.2021 and had concluded as under:*

3. The petitioner has raised a very short issue before us. His retirement fell on 30.06.2019 and had he retired on 01.07.2019, he would have been entitled for annual increment as is provided under Rule 10 of the Central Civil Services (Revised Pay) Rules,2008. Considering this provision, the Government of Maharashtra revised the Maharashtra Civil Services (Revised Pay) Rules,2009 and brought uniformity in the payment of annual increments. There is no dispute that the petitioner had worked up to 30.06.2019. He has

thus, completed one year prior to his retirement. He would be entitled for an annual increment, but for the fact that the Rules prescribed that he would be entitled to such increment if he has worked on 01.07.2019, when it became payable.

4. The issue raised in this petition has been squarely covered by the judgment delivered by the learned Division Bench of the Madras High Court on 15.09.2017 in Writ Petition No.15732/2017 filed by P. Ayyamperumal vs. The Registrar, Central Administrative Tribunal and others. The facts in the case before the Madras High Court were set out in paragraphs 5 and 6 and the Madras High Court drew its conclusions in paragraph 7 and allowed the petition. Paragraphs 5 to 7 read as under :-

“5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e. from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

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 v. 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 01.04.2002 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 judgment of the Madras High Court in *P.Ayyamperumal (supra)* was carried in Special Leave Petition (Civil) Diary No.22283/2018. By order dated 23.07.2018, the Honourable Supreme Court dismissed the said Special Leave Petition.

6. There is no dispute that Rule 10 of the Maharashtra Civil Services (Revised Pay) Rules,2009 is identical to the amended Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008 in relation to the uniformity in annual increments.

7. Considering the above, this Writ Petition is allowed. As the petitioner is superannuated on 30.06.2019, we hold that he would be entitled to the last annual increment, which he has been deprived of and the respondents shall, accordingly, calculate the said monetary benefits expeditiously so as to be paid to the petitioner on or before 30.09.2021. So also, as the grant of this annual increment would affect his pension, gratuity, earned leave, commutation benefits, etc., the respondents would recalculate the same and make the payment of arrears on or before 30.09.2021 and shall ensure that the revised pension is also paid to the petitioner accordingly.”

4. Applicant retired on 30/06/2021. In view of the above cited Judgment, the applicant is entitled for increment which falls due on 1st July,2021. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to grant increment which falls due on 1st July,2021 to the applicant with all consequential benefits.

(iii) No order as to costs.

Dated :- 02/01/2023.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 02/01/2023.*