

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO.134/2018.**

**(S.B.)**

Ramesh Buddhulal Pandel,  
Aged about 62 years,  
Occ-Retired Govt. Servant,,  
R/o Behind Adv. Jaiswal Building,  
Koshtipura, Lal Imli Chowk,  
Gandhi Bagh, Nagpur-440018.

**Applicant.**

**-Versus-**

- 1) The State of Maharashtra,  
Through its Secretary,  
Department of Water Resources ,  
Hutatma Rajguru Chowk,  
Madam Cama Road,  
Mantralaya, Mumbai-400 032.
- 2) The Superintending Engineer,  
Vidarbha Hydro Electric and  
Lift Irrigation Circle, Vainganga Nagar,  
Ajni, Nagpur.

**Respondents**

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Shri N.W. Almelkar, the learned counsel for the applicant.  
Shri M.I. Khan, the learned P.O. for the respondents.

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**Coram:-Shri J.D. Kulkarni,**  
**Vice-Chairman (J)**

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**JUDGMENT**

(Delivered on this 25<sup>th</sup> day of January 2019.)

Heard Shri N.W. Almelkar, the learned counsel for the applicant and Shri M.I. Khan, the learned P.O. for the respondents.

2. From the admitted facts on record, it seems that the applicant got retired from the office of the respondents on attaining the age of superannuation on 30.6.2014 on completing the age of 58 years. The date of birth of the applicant is 1.7.1956 and, therefore, he got retired on the last date of his service i.e. on 30.6.2014. For the whole year of 2013, the applicant has gained annual increment for total service of one year i.e. upto 1.7.2011 and his increment was due on 1.7.2014. But since he got retired on 30.6.2013, increment was denied to him. In fact, the applicant has completed one successful year of service on 30.6.2014 and the increment was to be paid on 1.7.2014. The applicant repeatedly filed representations to the respondents and requested to consider his case for getting increments. Such representations were filed on 27.6.2014, 30.9.2014, 12.1.2015 and 14.9.2015. The said representations were sent by the respondent No.2 to the respondent No.1. But no response was received. The applicant has, therefore, claimed that the directions to the respondents to release his annual increments which fell due on 1.7.2014 and to pay all monetary benefits such as

pension, gratuity, earned leave and commutation of pension etc. on the basis of such annual increments.

3. The respondent No.2 resisted the claim of the applicant and submits that the applicant got retired on attaining the age of 58 years on 30.6.2014 and that he has completed one year service period on 30.6.2014. But the increment was due on 1.7.2014 and on that day, the applicant was not in service. As per the Maharashtra Civil Services (Revised Pay) Rules, 2009 issued by Finance Department of Govt. of Maharashtra vide notification dated 22.4.1999, the date of next increment in revised pay structure is 1<sup>st</sup> July of every year and since the applicant was not in service on 1.7.2014, he cannot be granted annual increment.

4. The applicant has also filed an additional submission. It is stated that prior to recommendation of 6<sup>th</sup> Pay Commission, the applicant was getting annual increment on 1<sup>st</sup> of October every year and this practice continued till 1.10.2006. But because of the 6<sup>th</sup> Pay Commission, increments were being released on 1<sup>st</sup> day of July every year. It is stated that the applicant was promoted to the post of Superintendent on 29.6.2013, i.e., one year prior to his retirement and, therefore, in normal course, his next annual increment would have been issued and payable on 29.6.2014.

But since the 6<sup>th</sup> Pay Commission notified the increment date payable on 1.7.2014, the applicant could not get increment.

5. From the facts on record, it is thus clear that till 30.6.2014, the applicant completed one year's service and he has earned the increment on completion of his tenure of one year, i.e., on 30.6.2014. However, as per the Revised Pay Rues, the increment was to be paid on 1.7.2014. But on that date, the applicant was not in service.

6. The learned counsel for the applicant has relied on the judgment delivered by the Hon'ble High Court of Judicature at Madras in **W.P. No. 15732/2017 dated 15.9.2017 in case of P. Ayyamperumal V/s Registrar, Central Administrative Tribunal , Chennai and others.** In the said case, similar issue came up for consideration before the Hon'ble High Court. The petitioner in the said case joined the Indian Revenue Service (IRS) in Customs and Excise Department in the year 1982 and retired as Additional Director General, Chennai on 30.6.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1<sup>st</sup> July as the date of increment for all employees by amending the 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 ne year in service, i.e., from 1.7.2012 to 30.6.2013. Hence, the petitioner filed O.A. No. 310/00917/2015 before the Central Administrative Tribunal, Madras Bench and by order dated 21.3.2017, the Tribunal rejected the claim of the petitioner by taking a view that an incumbent is only entitled to increment on 1<sup>st</sup> July if he continued in service on that day. Since the petitioner was no longer in service on 1<sup>st</sup> July 2013, he was denied the relief. Challenging the order passed by the Tribunal, the present writ petition is filed.

The Hon'ble High Court considered the aforesaid fact and observed in para Nos. 6 and 7 as under:-

“6. In the case on hand, the petitioner got retired on 30.6.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 1.7.2013, but he had been superannuated on 30.6.2013 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 20.9.2012, 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 1.4.2002 to 31.3.2003, 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 30.6.2013, but the increment fell due on 1.7.2013, 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 21.3.2017 is quashed. The petitioner shall be given one notional increment for the period from 1.7.2012 to 30.6.2013, as he has completed one full year of service, though his increment fell on 1.7.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

7. The aforesaid judgment was challenged by the Union of India and others before the Hon'ble Apex Court in **SLP (E) Diary No.22283/2018 in case of Union of India and others-Versus- P. Ayyamperumal** and the Hon'ble Apex Court vide order dated

23.7.2018 was pleased to dismiss the said special leave petition. The judgment of the Hon'ble High Court of Madras has been confirmed by the Hon'ble Apex Court.

8. In the present case also, the applicant had completed one year full service as on 30.6.2014, but the increment fell due on 1.7.2013 on which date he was not in service and, therefore, has completed one full year of service and applying the aforesaid judgment, it will be clear that the applicant will be entitled to claim increment and consequent reliefs, because of release of such increment. Hence, I proceed to pass the following order:-

### **ORDER**

- (i) The O.A. is allowed in terms of prayer clause 9(iii) of the O.A.
- (ii) Necessary action of releasing the increment and granting consequential benefits to the applicant shall be taken within three months from the date of this order.
- (iii) No order as to costs.

(J.D.Kulkarni)  
Vice-Chairman(J)

