

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 976 of 2019**

Ashok S/o Jagdish Tiwari, Aged about 66 years,
Occupation: Retired (Medical Officer),
R/o Vrindavan Nagar, Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Public Health,
Mantralaya, Mumbai-32.
- 2) The Director of Health Services,
Arogya Bhavan, St. George Hospital,
Premises, Near CST, Mumbai.
- 3) The Deputy Director, Public Health Services,
Mata Kacheri, Near Diksha Bhumi,
Tah. and Dist. Nagpur.

Respondents

ORIGINAL APPLICATION No. 977 of 2019

Dr. Roopchand Gomaji Janbandhu, Aged about 63 years,
Occupation: Retired (Medical Officer),
R/o Gopal Nagar, Nagpur,
Tah. and Dist. Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Public Health,
Mantralaya, Mumbai-32.

- 2) The Director of Health Services,
Arogya Bhavan, St. George Hospital,
Premises, Near CST, Mumbai.
- 3) The Deputy Director, Public Health Services,
Mata Kacheri, Near Diksha Bhumi,
Tah. and Dist. Nagpur.

Respondents

ORIGINAL APPLICATION No. 1054 of 2019

Dr. Vijay S/o Gulabrao Bhojane, Aged about 57 years,
Occupation: Service (Medical Officer),
R/o 2nd Floor, Liberty Tower, Laxminagar, Nagpur,
Tah. and Dist. Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Public Health,
Mantralaya, Mumbai-32.
- 2) The Director of Health Services,
Arogya Bhavan, St. George Hospital,
Premises, Near CST, Mumbai.
- 3) The Deputy Director, Public Health Services,
Mata Kacheri, Near Diksha Bhumi,
Tah. and Dist. Nagpur.

Respondents

Shri S.N.Gaikwad, Id. Advocate for the applicant.

Shri A.P.Potnis, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri Shree Bhagwan,
Vice-Chairman.**

Date of Reserving for Judgment : 06th August, 2020.

Date of Pronouncement of Judgment : 28th September, 2020.

JUDGMENT**(Delivered on 28th day of September, 2020)**

Heard Shri S.N.Gaikwad, Id. counsel for the applicant and Shri A.P.Potnis, Id. P.O. for the respondents.

2. In O.A. No. 976/2019, applicant Shri Ashok Jagdish Tiwari came to be appointed in service on 18.05.1982 as a Junior Medical Officer and he superannuated on 30.06.2012 (Annexure-A-4, P.B., Pg. No. 14). However, applicant was denied increment due on 01.07.2012 and aggrieved with this applicant has approached to this Tribunal.

3. In O.A. No. 977/2019, applicant Shri Roopchand Gomaji Janbandhu came to be appointed in service on 23.08.1985 as a Junior Medical Officer and he superannuated on 30.06.2014 (Annexure-A-3, P.B., Pg. No. 11). However, applicant was denied increment due on 01.07.2014 and aggrieved with this applicant has approached to this Tribunal.

4. In O.A. No. 1054/2019, applicant Shri Vijay Gulabrao Bhojane came to be appointed in service on 30.12.1994 as a Junior Medical Officer and he superannuated on 30.06.2019 (Annexure-A-3, P.B., Pg. No. 10). However, applicant was denied increment due on

01.07.2019 and aggrieved with this applicant has approached to this Tribunal.

5. All the above three applicants have similar grievances; so all these three O.As. are decided by this common Judgment.

6. From the admitted facts on record, it is crystal clear that applicant in O.A. No. 976/2019 served till his superannuation date of 30.06.2012. His date of birth was 01.07.1954 and after attaining the age of 58 years, he superannuated on 30.06.2012 (afternoon). In the process the applicant served full years from 01.07.2012 to 30.06.2012 and now question is about his increment due on 01.07.2012.

7. Similarly, as per admitted fact in O.A. No. 977/2019 the date of birth of applicant was 01.07.1956 and after serving for 58 years he superannuated on 30.06.2014. In the process he served full year of 01.07.2013 to 30.06.2014 and now question is about his increment due on 01.07.2014.

8. Similarly, in O.A. No. 1054/2019 the date of birth of applicant was 30.06.2019 and after serving for 60 years of service (as retirement age was extended by G.O.M. from 58 years to 60 years) he superannuated on 30.06.2019 after completing 60 years of service. Now question is about his increment due on 01.07.2019.

9. The Id. Counsel for the applicant has relied on the Judgment of this Tribunal in O.A. No. 134/2018 delivered on 25/01/2019 in para no. 6 of the said Judgment of Hon'ble High Court of Judicature at Madras is relied upon 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 1st 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 1stJuly if he continued in service on that day. Since the petitioner was no longer in service on 1stJuly 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 theaforesaid fact and observed in para Nos. 6 and7 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 CDJ2012 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 pensioner benefits and not for any other purpose. No costs."

10. 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.

11. In the present case also the applicant in O.A. No. 976/2019 has completed one year full service as on 30.06.2012 but the increment

fail due on 01.07.2013. The applicant in O.A. No. 977/2019 has completed one full year service as on 30.06.2012 but the increment fail due on 01.07.2012. The applicant in O.A. No. 1054/2019 has completed one full year service as on 30.06.2019 but the increment fail due on 01.07.2019. So, though the applicants were not in service on the date on which the date of their increment was to be considered but they have completed one full year of service before that date and their grievances was squarely covered by Judgment of Hon'ble Madras High Court in **W.P. No. 15732/2017 dated 15.9.2017 in case of P.Ayyamperumal V/s Registrar, Central Administrative Tribunal, Chennai and others** and subsequently Hon'ble Apex Court also confirmed the same Judgment. In this situation, the law is now well settled in such cases and applicants required to be granted relief. Hence, following orders:-

ORDER

- A. All the O.As. are Partly Allowed in terms of relief clause No. 1 (ii) & (iii) as in O.A..
- B. Necessary action of releasing the increments and granting consequential benefits to the applicants shall be taken within three months from the date of this order.

C. No order as to costs.

(Shri Shree Bhagwan)
Vice-Chairman

aps

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

Name of Steno : A.P.Srivastava

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 28/09/2020.
and pronounced on

Uploaded on : 29/09/2020.