

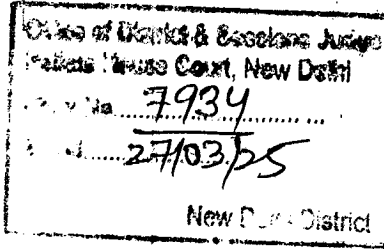
IN THE HIGH COURT OF DELHI AT NEW DELHI

15418-1560
No. /DHC/Gaz.IB/G-2/SC-Judgment/2025

Dated: 26, March, 2025.

From:

The Registrar General,
High Court of Delhi,
New Delhi-110003.



To,

1. The Principal District & Sessions Judge (HQ), Tis Hazari Courts Complex, Delhi.
2. The Principal District & Sessions Judge (New Delhi), Patiala House Courts Complex, New Delhi.
3. The Principal District & Sessions Judge (South-West), Dwarka Courts Complex, New Delhi.
4. The Principal District & Sessions Judge (West), Tis Hazari Courts Complex, Delhi.
5. The Principal District & Sessions Judge (East), Karkardooma Courts Complex, Delhi.
6. The Principal District & Sessions Judge (South), Saket Courts Complex, New Delhi.
7. The Principal District & Sessions Judge (Shahdara), Karkardooma Courts Complex, Delhi.
8. The Principal District & Sessions Judge (North-West), Rohini Courts Complex, Delhi.
9. The Principal District & Sessions Judge-cum-Special Judge (PC Act) (CBI), RACC, New Delhi.
10. The Principal District & Sessions Judge (South-East), Saket Courts complex, Delhi.
11. The Principal District & Sessions Judge (North), Rohini Courts Complex, Delhi.
12. The Principal District & Sessions Judge (North-East), Karkardooma Courts Complex, Delhi.
13. The Principal Judge (HQ), Family Courts, Dwarka, New Delhi.

Sub: Order dated 20.02.2025 in M.A No. 347 of 2025 in M.A No. 2400 of 2024 in Civil Appeal No. 3933 of 2023 titled as "Union of India & Anr. vs. M. Siddaraj".

Sir/ Madam,

I am directed to forward herewith a copy of orders dated 20.02.2025, 06.09.2024 and 11.04.2023 passed by the Hon'ble Supreme Court of India in M.A No. 347 of 2025 in M.A No. 2400 of 2024 in Civil Appeal No. 3933 of 2023 titled as "Union of India & Anr. vs. M. Siddaraj", with the request to circulate the same amongst all the Judicial Officers working under your respective control for information and necessary compliance.

ld. au/gend.
off - PS 75J/MAD
29/3/2025

Yours faithfully,

(Ashok Sharma)
Assistant Registrar
For Registrar General.

Encl: As above.

Certified to be true copy
Assistant Registrar (Judl.)
1st March 2025
Supreme Court of India

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
M.A. No. - 347 of 2025
MISCELLANEOUS APPLICATION DIARY NO. 2400 OF 2024
IN
CIVIL APPEAL NO. 3933 OF 2023

UNION OF INDIA & ANR.

VERSUS

M. SIDDARAJ

APPLICANT(S) /
APPELLANT(S)

25031771

NON-APPLICANT(S) /
RESPONDENT(S)

with
M.A. No. - 348 of 2025
MISCELLANEOUS APPLICATION DIARY NO. 35783 OF 2024
IN
CIVIL APPEAL NO. 3933 OF 2023

M.A. No. - 349 of 2025
MISCELLANEOUS APPLICATION DIARY NO. 35785 OF 2024
IN
CIVIL APPEAL NO. 3933 OF 2023

M.A. No. - 350 of 2025
MISCELLANEOUS APPLICATION DIARY NO. 35786 OF 2024
IN
CIVIL APPEAL NO. 3933 OF 2023

CONTEMPT PETITION (CIVIL) No. /2025
(Diary No. 38437/2023)
IN
CIVIL APPEAL NO. 3933 OF 2023

CONTEMPT PETITION (CIVIL) No. /2025
(Diary No. 38438/2023)
IN
CIVIL APPEAL NO. 3933 OF 2023

CONTEMPT PETITION (CIVIL) No. /2025
(Diary No. 11336/2024)
IN
CIVIL APPEAL NO. 3933 OF 2023

and

CONTEMPT PETITION (CIVIL) No. /2025
(Diary No. 20636/2024)

IN
CIVIL APPEAL NO. 3933 OF 2023

O R D E R

Miscellaneous Application Diary Nos. 2400/2024, 35783/2024
35785/2024 and 35786/2024

Delay condoned.

We had passed the following interim order dated 06.09.2024
the operative portion of which reads as under:

"(a) The judgment dated 11.04.2023 will be given effect to in case of third parties from the date of the judgment, that is, the pension by taking into account one increment will be payable on and after 01.05.2023. Enhanced pension for the period prior to 31.04.2023 will not be paid.

(b) For persons who have filed writ petitions and succeeded, the directions given in the said judgment will operate as *res judicata*, and accordingly, an enhanced pension by taking one increment would have to be paid.

(c) The direction in (b) will not apply, where the judgment has not attained finality, and cases where an appeal has been preferred, or if filed, is entertained by the appellate court.

(d) In case any retired employee has filed any application for intervention/impleadment in Civil Appeal No. 3933/2023 or any other writ petition and a beneficial order has been passed, the enhanced pension by including one increment will be payable from the month in which the application for intervention/impleadment was filed."

We are inclined to dispose of the present miscellaneous applications directing that Clauses (a), (b) and (c) of the order dated 06.09.2024 will be treated as final directions. We are however, of the opinion that Clause (d) of the order dated 06.09.2024 requires modification which shall now read as under:

"(d) In case any retired employee filed an application for intervention/impleadment/writ petition/original application before the Central Administrative

Tribunal/High Courts/this Court, the enhanced pension by including one increment will be payable for the period of three years prior to the month in which the application for intervention/ impleadment/ writ petition/ original application was filed."

Further, clause (d) will not apply to the retired government employee who filed a writ petition/original application or an application for intervention before the Central Administrative Tribunal/High Courts/this Court after the judgment in "Union of India & Anr. v. M. Siddaraj"¹, as in such cases, clause (a) will apply.

Recording the aforesaid, the miscellaneous applications are disposed of.

We, further, clarify that in case any excess payment has already been made, including arrears, such amount paid will not be recovered.

It will be open to any person aggrieved by non-compliance with the directions and the clarification of this Court, in the present order, to approach the concerned authorities in the first instance and, if required, the Administrative Tribunal or High Court, as per law.

Pending applications including all intervention/impleadment applications shall stand disposed of in terms of this order.

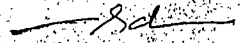
Contempt Petition (Civil) Diary Nos. 38437/2023, 38438/2023, 11336/2024 and 20636/2024

In view of the order passed today in the connected matters, that is, M.A. Diary No. 2400 OF 2024 and other connected applications, the present contempt petitions will be treated as disposed of with

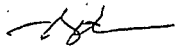
¹ Dated 19.05.2023 in Civil Appeal No. 3933/2023, titled "Union of India & Anr. vs. M. Siddaraj" and other connected matters.

liberty to the petitioners to take recourse to appropriate remedies, if required and necessary, as indicated supra. It goes without saying that the respondents shall examine the cases of the petitioners/ applicants in terms of the order passed today and comply with the same expeditiously.

Pending application(s), if any, shall stand disposed of.

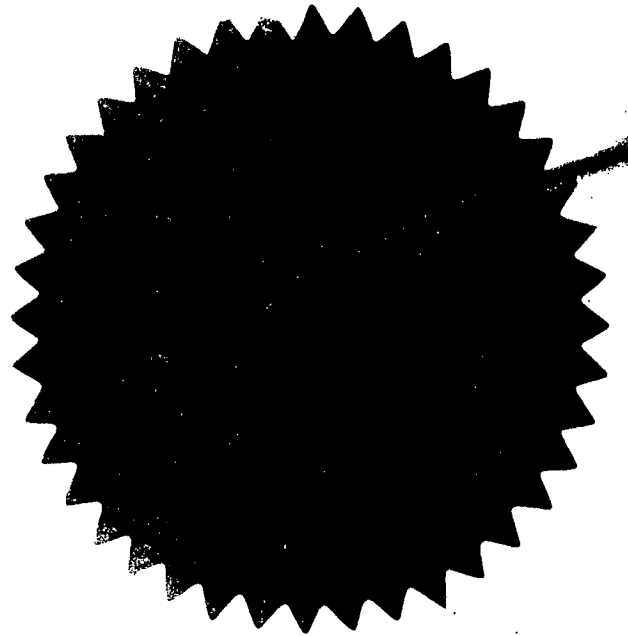


.....CJI.
(SANJIV KHANNA)



(SANJAY KUMAR)

NEW DELHI;
FEBRUARY 20, 2025.



✓

SEALED IN MY PRESENCE

ITEM NO.23

COURT NO.2

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSMISCELLANEOUS APPLICATION Diary No. 2400/2024INSPECIAL LEAVE PETITION (C) NO. 4722/2021

UNION OF INDIA & ANR.

Petitioner(s)

VERSUS

M. SIDDARAJ

Respondent(s)

(IA No. 11504/2024 - CLARIFICATION/DIRECTION
IA No. 11514/2024 - CONDONATION OF DELAY IN FILING
IA No. 152780/2024 - EXEMPTION FROM FILING O.T.
IA No. 138880/2024 - EXEMPTION FROM FILING O.T.
IA No. 156900/2024 - INTERVENTION APPLICATION
IA No. 172293/2024 - INTERVENTION/IMPLEADMENT
IA No. 155003/2024 - INTERVENTION/IMPLEADMENT)

WITH

Diary No(s). 26733/2023 (IV-A)

(IA No. 126464/2023 - APPROPRIATE ORDERS/DIRECTIONS)

Diary No(s). 38437/2023 (IV-A)Diary No(s). 38438/2023 (IV-A)Diary No(s). 11336/2024 (IV-A)Diary No(s). 20636/2024 (IV-A)

Date : 06-09-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s) Mr. Rajat Joseph, AOR

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Ms. Shirin Khajuria, Sr. Adv.
Ms. Ranu Purohit, AOR
Ms. Swati Tiwari, Adv.
Ms. Niharika Singh, Adv.

Mr. Gopal Singh, Adv.
 Mr. K R Anand, Adv.
 Mr. Kumar Mihir, AOR

Mr. Shreekant Neelappa Terdal, AOR

Mr. R Venkataramani, A G for India(N/P)
 Mr. Vikramjit Banerjee, A.S.G.
 Mr. Amit Sharma B, Adv.
 Mr. Chitvan Singhal, Adv.
 Mr. Abhishek Kumar Pandey, Adv.
 Mr. Raman Yadav, Adv.
 Mr. Nachiketa Joshi, Adv.
 Mr. Amrish Kumar, AOR

For Respondent(s) M/s. Nuli & Nuli, AOR

Mr. Lather Mukul Kanwar Singh, AOR
 Mr. Devesh Kumar Chauvia, Adv.
 Mr. Ashish Kumar Singh, Adv.
 Mrs. Pratibha Singh, Adv.

Ms. Shirin Khajuria, Sr. Adv.
 Ms. Ranu Purohit, AOR
 Ms. Niharika Singh, Adv.
 Ms. Swati Tiwari, Adv.

Mr. Rameshwar Prasad Goyal, AOR
 Mr. Anubhav, Adv.
 Mr. Yashwant Singh Yadav, Adv.
 Mr. Vijay Pal, Adv.
 Mr. Arvind, Adv.
 Mr. Ravi Karahana, Adv.
 Mr. Shivkumar Raghunath Golwalkar, Adv.

Applicant-in-person, AOR

Ms. Geeta Luthra, Sr. Adv.
 Ms. Vidya Sagar, Adv.
 Mr. Amolak, Adv.
 Ms. Ishita Agrawal, Adv., Adv.
 Mr. R. C. Kaushik, AOR

Mr. Venkita Subramoniam T.r, AOR
 Mr. Rahat Bansal, Adv.
 Mr. Varun Mudgal, Adv.

Mr. Rajat Joseph, AOR

UPON hearing the counsel, the Court made the following
O R D E R

It is stated that the Review Petition in Diary No. 36418/2024 filed by the Union of India is pending.

The issue raised in the present applications requires consideration, insofar as the date of applicability of the judgment dated 11.04.2023 in Civil Appeal No. 2471/2023, titled "*Director (Admn. and HR) KPTCL and Others v. C.P. Mundinamani and Others*", to third parties is concerned.

We are informed that a large number of fresh writ petitions have been filed.

To prevent any further litigation and confusion, by of an interim order we direct that:

- (a) The judgment dated 11.04.2023 will be given effect to in case of third parties from the date of the judgment, that is, the pension by taking into account one increment will be payable on and after 01.05.2023. Enhanced pension for the period prior to 31.04.2023 will not be paid.
- (b) For persons who have filed writ petitions and succeeded, the directions given in the said judgment will operate as *res judicata*, and accordingly, an enhanced pension by taking one increment would have to be paid.
- (c) The direction in (b) will not apply, where the judgment has not attained finality, and cases where an appeal has been

preferred, or if filed, is entertained by the appellate court.

- (d) In case any retired employee has filed any application for intervention/impleadment in Civil Appeal No. 3933/2023 or any other writ petition and a beneficial order has been passed, the enhanced pension by including one increment will be payable from the month in which the application for intervention/impleadment was filed.

This interim order will continue till further orders of this Court. However, no person who has already received an enhanced pension including arrears, will be affected by the directions in (a), (c) and (d).

Re-list in the week commencing 04.11.2024.

(BABITA PANDEY)
COURT MASTER (SH)

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 2471 OF 2023
(@ SLP (C) No. 6185/2020)

The Director (Admn. and HR) ..Appellant(s)
KPTCL & Ors.

Versus

C.P. Mundinamani & Ors. ...Respondent(s)

J U D G M E N T

M.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Karnataka at Bengaluru in Writ Appeal No. 4193/2017, by which, the Division Bench of the High Court has allowed the said appeal preferred by the employees -

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Reason:

respondents herein by quashing and setting aside the judgment and order passed by the learned Single Judge and directing the appellants to grant one annual increment which the respondents had earned one day prior to they retired on attaining the age of superannuation, the management - KPTCL has preferred the present appeal.

2. The undisputed facts are that one day earlier than the retirement and on completion of one year service preceding the date of retirement all the employees earned one annual increment. However, taking into consideration Regulation 40(1) of the Karnataka Electricity Board Employees Service Regulations, 1997 (hereinafter referred to as the Regulations), which

provides that an increment accrues from the day following that on which it is earned, the appellants denied the annual increment on the ground that the day on which the increment accrued the respective employees – original writ petitioners were not in service. The writ petition(s) filed by the original writ petitioners claiming the annual increment came to be dismissed by the learned Single Judge. By the impugned judgment and order and following the decision of the Andhra Pradesh High Court in the case of **Union of India and Ors. Vs. R. Malakondaiah and ors. reported in 2002(4) ALT 550 (D.B.)** and relying upon the decisions of other High Courts, the Division Bench of the Karnataka High Court has allowed the appeal and has directed that the appellants to grant one

annual increment to the respective employees-respondents by observing that the respective employees as such earned the increment for rendering their one-year service prior to their retirement.

2.1 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the Division Bench of the High Court, the management – KPTCL has preferred the present appeal.

3. Shri Huzefa Ahmadi, learned Senior Advocate has appeared on behalf of the appellants and Shri Mallikarjun S. Mylar, learned counsel has appeared on behalf of the respective employees – respondents.

3.1 Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants has vehemently submitted that the decision of the Andhra Pradesh High Court in the case of **R. Malakondaiah (supra)** which has been relied upon by the Division Bench of the High Court while passing the impugned judgment and order has been subsequently overruled by the Full Bench of the Andhra Pradesh High Court in the case of **Principal Accountant-General, Andhra Pradesh and Anr. Vs. C. Subba Rao reported in 2005 (2) LLN 592.**

3.2 It is further submitted by Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants that there are divergent views of different High Courts on the issue. It is submitted that the Madras High Court, the

Delhi High Court, the Allahabad High Court, the Madhya Pradesh High Court, the Gujarat High Court have taken a contrary view than the view taken by the Full Bench of the Andhra Pradesh High Court, the Kerala High Court and the Himachal Pradesh High Court. It is submitted that various High Courts taking the contrary view have as such followed the decision of the Madras High Court in the case of **P. Ayyamperumal Vs. The Registrar and Ors. (W.P. No. 15732/2017 decided on 15.09.2017).**

3.3 On merits, Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants has vehemently submitted that the words used in Regulation 40(1) of the Regulations are very clear and unambiguous.

It is submitted that it categorically provides that "an increment accrues from the day following that on which it is earned." It is submitted that therefore, when the right to get the increment is accrued the employee must be in service. It is submitted that in the present case when the right to get the increment accrues in favour of the respective respondents they were not in service but on their superannuation retired from the services. It is submitted that therefore, they shall not be entitled to the annual increment which might have been earned one day earlier i.e., on the last day of their service.

3.4 It is further submitted by Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants that 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. It is submitted that therefore, when the concerned employees are not in service due to their retirement 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.

3.5 Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants has also taken us to the definition of the word “accrue” in the Law Lexicon (the encyclopaedic law dictionary) and the definition of the word “increment.” It is submitted that as per the Law Lexicon, “increment” means a unit of increase in quantity or value. It means a

promotion from a lower grade to a higher grade. As per the definition "increment" means an upward change in something. It is submitted that as per the Law Lexicon the word "accrue" means to come into existence as an enforceable claim or right. It is submitted that therefore, on true interpretation of Regulation 40(1) of the Regulations, an increment accrues from the day following that on which it is earned. It is submitted that therefore, the Division Bench of the High Court has materially erred. It is submitted that therefore, the view taken by the Division Bench of the High Court and other High Courts that the concerned employees shall be entitled to the benefit of one annual increment which they earned one day prior to their retirement is erroneous and

is on mis-interpretation of the relevant statutory provisions. Making the above submissions, it is prayed to allow the present appeal.

4. Learned counsel appearing on behalf of the respective employees – respondents, has heavily relied upon the decision of the Madras High Court in the case of **P. Ayyamperumal (supra)** and the decisions of the Gujarat High Court, the Delhi High Court, the Allahabad High Court, the Madhya Pradesh High Court and the Orissa High Court taking the view that the concerned employees who earned the annual increment for rendering one year service prior to their retirement they 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. It is submitted that therefore, the Division Bench of the High Court has not committed any error in allowing one annual increment in favour of the respective employees which they actually earned.

- 4.1 Making the above submissions, it is prayed to dismiss the present appeal.
5. We have heard learned counsel appearing on behalf of the respective parties.
6. The short question which is posed for the consideration of this Court is whether an employee who has earned the annual increment is entitled to the same despite the

the appellants. On the other hand, the Madras High Court in the case of **P. Ayyamperumal (supra)**; 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)**; 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)**; the Madhya Pradesh High Court in the case of **Yogendra Singh Bhadauria and Ors. Vs. State of Madhya Pradesh**; 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 the Gujarat High Court in the case of **State**

ground that they retired on attaining the age of superannuation on the very next day. It is submitted that therefore, the Division Bench of the High Court has not committed any error in allowing one annual increment in favour of the respective employees which they actually earned.

- 4.1 Making the above submissions, it is prayed to dismiss the present appeal.
5. We have heard learned counsel appearing on behalf of the respective parties.
6. The short question which is posed for the consideration of this Court is whether an employee who has earned the annual increment is entitled to the same despite the

fact that he has retired on the very next day of earning the increment?

- 6.1 In the present case, the relevant provision is Regulation 40(1) of the Regulations which reads as under: -

“Drawals and postponements of increments

40(1) An increment accrues from the day following that on which it is earned. An increment that has accrued shall ordinarily be drawn as a matter of course unless it is withheld. 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. In ordering the withholding of an increment, the withholding authority shall state the period for which it is withheld, and whether the postponement shall have the effect of postponing future increments.”

- 6.2 It is the case on behalf of the appellants that the word used in Regulation 40(1) is that an increment accrues from the day following that on which it is earned and in the present case the increment accrued on the day when they

retired and therefore, on that day they were not in service and therefore, not entitled to the annual increment which they might have earned one day earlier. It is also the case on behalf of the appellants that as the increment is in the form of incentive and therefore, when the employees are not in service there is no question of granting them any annual increment which as such is in the form of incentive.

6.3 At this stage, it is required to be noted that there are divergent views of various High Courts on the issue involved. The Full Bench of the Andhra Pradesh High Court, the Himachal Pradesh High Court and the Kerala High Court have taken a contrary view and have taken the view canvassed on behalf of

the appellants. On the other hand, the Madras High Court in the case of **P. Ayyamperumal (supra)**; 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)**; 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)**; the Madhya Pradesh High Court in the case of **Yogendra Singh Bhadauria and Ors. Vs. State of Madhya Pradesh**; 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 the Gujarat High Court in the case of **State**

of Gujarat Vs. Takhatsinh Udesinh Songara (Letters Patent Appeal No. 868/2021) have taken a divergent view than the view taken by the Full Bench of the Andhra Pradesh High Court and have taken the view that once an employee has earned the increment on completing one year service he cannot be denied the benefit of such annual increment on his attaining the age of superannuation and/or the day of retirement on the very next day.

6.4 Now so far as the submission on behalf of the appellants that the 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, the

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aforesaid has no substance. In a given case, it may happen that the employee earns the increment three days before his date of superannuation and therefore, even according to the Regulation 40(1) increment is accrued on the next day in that case also such an employee would not have one year service thereafter. It is to be noted that increment is earned on one year past service rendered in a time scale. Therefore, the aforesaid submission is not to be accepted.

6.5 Now, so far as the submission on behalf of the appellants that as the increment has accrued on the next day on which it is earned and therefore, even in a case where an employee has earned the increment one day prior to his retirement but he is not in service

the day on which the increment is accrued is concerned, while considering the aforesaid issue, the object and purpose of grant of annual increment is required to be considered. A government servant is granted the annual increment on the basis of his good conduct while rendering one year service. Increments are given annually to officers with good conduct unless such increments are withheld as a measure of punishment or linked with efficiency. Therefore, the increment is earned for rendering service with good conduct in a year/specified period. Therefore, the moment a government servant has rendered service for a specified period with good conduct, in a time scale, he is entitled to the annual increment and it can be said that he has earned the annual increment

for rendering the specified period of service with good conduct. Therefore, as such, he is entitled to the benefit of the annual increment on the eventuality of having served for a specified period (one year) with good conduct efficiently. Merely because, the government servant has retired on the very next day, how can he be denied the annual increment which he has earned and/or is entitled to for rendering the service with good conduct and efficiently in the preceding one year. In the case of **Gopal Singh (supra)** in paragraphs 20, 23 and 24, the Delhi High Court has observed and held as under: -

(para 20)

“Payment of salary and increment to a central government servant is regulated by the provisions of F.R., CSR and Central Civil Services (Pension) Rules.

Pay defined in F.R. 9(21) means the amount drawn monthly by a central government servant and includes the increment. A plain composite reading of applicable provisions leaves no ambiguity that annual increment is given to a government servant to enable him to discharge duties of the post and that pay and allowances are also attached to the post. Article 43 of the CSR defines progressive appointment to mean an appointment wherein the pay is progressive, subject to good behaviour of an officer. It connotes that pay rises, by periodical increments from a minimum to a maximum. The increment in case of progressive appointment is specified in Article 151 of the CSR to mean that increment accrues from the date following that on which it is earned. The scheme, taken cumulatively, clearly suggests that appointment of a central government servant is a progressive appointment and periodical increment in pay from a minimum to maximum is part of the pay structure. Article 151 of CSR contemplates that increment accrues from the day following which it is earned. This increment is not a matter of course but is dependent upon good conduct of the central government servant. It is, therefore, apparent that central government employee earns increment on the basis of his good conduct for specified period i.e. a year in case of annual increment. Increment in pay is thus an integral part of

progressive appointment and accrues from the day following which it is earned.”

(para 23)

“Annual increment though is attached to the post & becomes payable on a day following which it is earned but the day on which increment accrues or becomes payable is not conclusive or determinative. In the statutory scheme governing progressive appointment increment becomes due for the services rendered over a year by the government servant subject to his good behaviour. The pay of a central government servant rises, by periodical increments, from a minimum to the maximum in the prescribed scale. 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.”

(para 24)

“In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. 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.”

“In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable loses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that if offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates right in the central government servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remains protected and are not denied due to a fortuitous circumstance.”

6.6 The Allahabad High Court in the case of **Nand Vijay Singh (supra)** while dealing with the same issue has observed and held in paragraph 24 as under: -

“24. Law is settled that where entitlement to receive a benefit crystallises in law its denial would be arbitrary unless it is for a valid reason. The only reason for denying benefit of increment, culled out from the scheme is that the central government servant is not holding the post on the day when the increment becomes payable. This cannot be a valid ground for denying increment since the day following the date on which increment is earned only serves the purpose of ensuring completion of a year's service with good conduct and no other purpose can be culled out for it. The concept of day following which the increment is earned has otherwise no purpose to achieve. In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. 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. In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable

looses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that if offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates right in the central government servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remains protected and are not denied due to a fortuitous circumstance.”

6.7 Similar view has also been expressed by different High Courts, namely, the Gujarat High Court, the Madhya Pradesh High Court, the Orissa High Court and the Madras High Court. As observed hereinabove, to interpret Regulation 40(1) of the Regulations in the manner in which the appellants have understood and/or interpreted would lead

to arbitrariness and 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. As observed hereinabove, 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. If the interpretation as suggested on behalf of the appellants and the view taken by the Full Bench of the Andhra Pradesh High Court is accepted, in that case 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. In the present case the word "accrue" should be understood liberally and would mean payable on the succeeding day. 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. We are in complete agreement with the view taken by the Madras High Court in the case of **P. Ayyamperumal (supra)**; the Delhi High

Court in the case of **Gopal Singh (supra)**; the Allahabad High Court in the case of **Nand Vijay Singh (supra)**; the Madhya Pradesh High Court in the case of **Yogendra Singh Bhadauria (supra)**; the Orissa High Court in the case of **AFR Arun Kumar Biswal (supra)**; and the Gujarat High Court in the case of **Takhatsinh Udesinh Songara (supra)**. We do not approve the contrary view taken by the Full Bench of the Andhra Pradesh High Court in the case of **Principal Accountant-General, Andhra Pradesh (supra)** and the decisions of 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 the Himachal Pradesh High Court in the case of **Hari Prakash Vs. State of Himachal**

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7. In view of the above and for the reasons stated above, the Division Bench of the High Court has rightly directed the appellants 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. We are in complete agreement with the view taken by the Division Bench of the High Court. Under the circumstances, the present appeal deserves to be dismissed and is accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

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I.A. No. 149091/2022 stands disposed of
in terms of the above.

.....J.
[M.R. SHAH]

.....J.
[C.T. RAVIKUMAR]

NEW DELHI;
APRIL 11, 2023