

**THE HON'BLE SRI JUSTICE A.V. SESA SAI**  
**&**  
**THE HON'BLE SMT.JUSTICE VENKATA JYOTHIRMAI PRATAPA**  
**W.P.Nos. 14381, 5873, 6137, 8428, 8472, 8478, 8483, 8486,**  
**8488, 8491, 8571, 8574, 8575, 8576, 8578, 8601, 9153, 9337,**  
**9393, 9469, 10080, 10082, 10749, 12441, 12453, 12454,**  
**12456, 12457, 12476, 12483, 12484, 12538, 12541, 12548,**  
**12550, 12552, 12566, 12567, 12571, 12783, 13021, 14182,**  
**14210, 15589, 16649, 16658 of 2021 AND W.P.Nos.21821,**  
**21833 AND 21995 OF 2022**

**COMMON ORDER:** *(per A.V. Sesa Sai, J)*

Heard Sri N.Harinath, learned Deputy Solicitor General for Union of India for the petitioners and the learned counsel for the respondents.

2. Since, the issue in all these Writ Petitions is one and the same, this Court deems it appropriate to dispose of all these Writ Petitions by way of a Common Order.

3. The only issue that requires consideration in these Writ Petitions is:-

*“Whether an employee, who retires on attaining the age of superannuation on the last day of the preceding month, would be entitled for the increment which falls due on the 1<sup>st</sup> day of the succeeding month?”.*

4. The said issue is no longer res integra, in view of the law laid down by the Hon'ble Apex Court in the case of **Director(Admn. and HR) KPTCL and others Vs. C.P.Mundinamani and others**<sup>1</sup>. Paragraphs Nos.20 and 21 of the said Judgment read as follows:-

*20. 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 here in above, 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*

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<sup>1</sup> (2023) SCC Online Sc 401

*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 v. Pavithran (O.P.(CAT) No. 111/2020 decided on 22.11.2022) and the Himachal Pradesh High Court in the case of Hari Prakash v. State of Himachal Pradesh (CWP No. 2503/2016 decided on 06.11.2020).*

*21. 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.*

5. In view of the law laid down by the Hon'ble Apex Court, in the above referred Judgment, the Writ Petitions are liable to be dismissed.

6. Accordingly, the Writ Petitions are dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these cases, shall stand closed.

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**A.V. SESA SAI, J**

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**VENKATA JYOTHIRMAI PRATAPA, J**

Date: 18.10.2023  
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*(per A.V. Sesa Sai, J)*

**Date:18.10.2023**

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