

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).22283/2018

(Arising out of impugned final judgment and order dated 15-09-2017 in WP No. 15732/2017 passed by the High Court of Judicature at Madras)

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

P. AYYAMPERUMAL

Respondent(s)

(WITH I.R. and IA No.90336/2018-CONDONATION OF DELAY IN FILING)

Date : 23-07-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s)

Mr. Aman Lekhi, ASG
Mr. Harish Pandey, Adv.
Ms. Seema Bangani, Adv.
Mr. Piyush Beriwal, Adv.
Mr. B. Krishna Prasad, AOR

For Respondent(s)

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

Delay condoned.

On the facts, we are not inclined to interfere with the impugned judgment and order passed by the High Court of Judicature at Madras.

The special leave petition is dismissed.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.15732 of 2017

P.Ayyamperumal ... Petitioner

-VS-

- 1.The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Complex,
Chennai-600 105.
- 2.Union of India rep.by
the Chairman, CBEC,
North Block,
New Delhi-110 001.
- 3.Union of India rep.by
Department of Personnel & Training,
New Delhi.
- 4.The Director of General (Inspection),
Customs & Central Excise,
"D" Block, I.P.Bhawan, I.P.Estate,
New Delhi-110 002. .. Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent in O.A./310/00917/2015 dated 21.03.2017 and quash the same and consequently direct the fourth respondent to treat the retirement date of the petitioner as on 01.07.2013 and grant all the consequential benefits including the pensionary benefits.

For Petitioner :: Mr.P.Ayyamperumal,
Petitioner-in-Person

For Respondents :: Mr.K.Mohanamurali,
Sr.Panel Counsel for R2 to R4

ORDER

(Order of the Court was made by
HULUVADI G.RAMESH, J.)

This writ petition has been filed to quash the order passed by the first respondent-Tribunal in O.A./310/00917/2015 dated 21.03.2017 and to consequently direct the fourth respondent to treat the retirement date of the petitioner as 01.07.2013 and grant him all the consequential benefits including the pensionary benefits.

2.The case of the petitioner is that he joined the Indian Revenue Service in Customs and Excise Department in the year 1982 and 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, ie., 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 by order dated 21.03.2017, the Tribunal rejected the claim of the petitioner by

taking a view that an incumbent is only entitled to increment on 1st July if he continued in service on that day. Since the petitioner was no longer in service on 1st July 2013, he was denied the relief. Challenging the order passed by the Tribunal, the present writ petition is filed.

3.The petitioner, appearing as party-in-person, has referred to the judgment passed by this Court in **State of Tamil Nadu, rep.by its Secretary to Government, Finance Department and others v. M.Balasubramaniam, reported in CDJ 2012 MHC 6525**, wherein the appeal filed by the State challenging the order passed in the writ petition entitling the employee who was similarly placed like that of the petitioner, the benefit of increment on the ground that he has completed one full year of service from 01.04.2002 to 31.03.2003, was rejected. Referring to that judgment, the petitioner has submitted that the said benefit has to be extended to him. He further submitted that even though the above decision squarely covers his case, no mention has been made by the Central Administrative Tribunal as to how that decision is not applicable to him. With regard to the said issue, the petitioner has also referred to the order passed by the Government of Tamil Nadu in G.O.Ms.No.311, Finance (CMPC) Department, dated 31.12.2014, and submitted that in the said G.O., it has been mentioned that the Pay Grievance Redressal Cell has

recommended that when the date of increment of a Government servant falls due on the day following superannuation on completion of one full year of service, such service may be considered for the benefit of notional increment purely for the purpose of pensionary benefits and not for any other purpose. Stating so, the petitioner prayed for allowing this writ petition.

4. Heard the learned Senior Panel Counsel appearing for the respondents 2 to 4 on the submissions made by the petitioner and perused the materials available on record.

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, ie., 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.

Index : Yes/No
Internet : Yes/No

(H.G.R.,J.) (T.K.R.,J.)
15.09.2017

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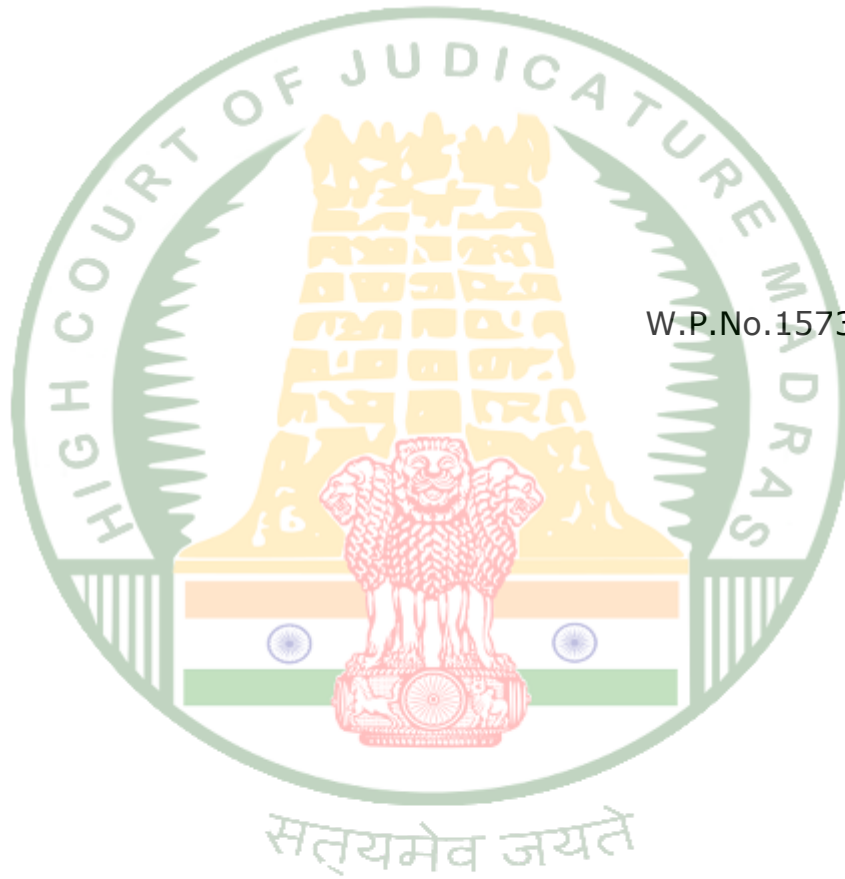
To

- 1.The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Complex,
Chennai-600 105.
- 2.The Chairman, CBEC,
Union of India,
North Block,
New Delhi-110 001.
- 3.Department of Personnel & Training,
Union of India,
New Delhi.
- 4.The Director of General (Inspection),
Customs & Central Excise,
"D" Block, I.P.Bhawan, I.P.Estate,
New Delhi-110 002.

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HULUVADI G.RAMESH, J.
AND
RMT.TEEKAA RAMAN, J.

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W.P.No.15732 of 2017

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