IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.18514 of 2026

Decided on: 26th October, 2026

Suresh Kumari **.....Petitioner**

Versus

State of H.P. and others **.....Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?[1]

For the Petitioner: Mr. Ganesh Barowalia, Advocate.

For the Respondents: Mr. Sikander Bhushan, Deputy Advocate General.

Jyotsna Rewal Dua, Judge

Notice. Mr. Sikander Bhushan, learned Deputy Advocate General, appears and waives service of notice on behalf of the respondents.

2. With the consent of learned counsel for the parties, the matter is heard at this stage.

3. Petitioner, serving as Shastri in the respondent-Education Department, retired on 30.06.2021 on attaining the age of superannuation. In this petition, she is claiming increment for one year of service rendered by her preceding

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[1]**Whether reporters of print and electronic media may be allowed to see the order? Yes.**

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the date of her retirement, i.e. for the period of 12 months, which was actually due to her on 01.07.2021.

4. Grievance of the petitioner is that her representation dated 23.08.2026 (Annexure P-7), seeking the redressal of her grievances has not been considered by the respondents. The relief has been prayed on the strength of law laid down by the Hon'ble Apex Court in ***Director (Admn. and HR) KPTCL & Ors. Vs. C.P. Mundinamani & Ors.***[2], wherein it was held that an employee is entitled to the annual increment, which he earned on the last date of his service for rendering services preceding one year from the date of his retirement with good behavior and efficiently.

4(i). It is not in dispute that the aforesaid order passed by the Hon'ble Apex Court was clarified under an interim order passed in ***Union of India & Anr. vs. M. Siddaraj***[3], more particularly vis-à-vis its application to third parties. The order reads as under:-

> *"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)*

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[2] Civil Appeal No.2471/2023 and SLP(C) No.6185/2020, decided on 11.04.2023

[3] Miscellaneous Application Diary No.2400/2024 in Special Leave Petition (C) No.4722/2021, order dated 06.09.2024

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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 preferred, 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."

In the above extracted order, direction has *inter-alia* been issued that the judgment dated 11.04.2023 passed in ***Director (Admn. and HR) KPTCL & Ors.***[2] will be given effect to in case of third parties from the date of the judgment; that pension will be paid by taking into account

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one increment on or after 01.05.2023 and enhanced pension for the period prior to 31.04.2023 will not be paid.

4(ii). A memorandum dated 14.10.2024 has now been circulated by the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, Government of India, issuing instructions in compliance to afore-extracted interim order dated 06.09.2024 passed by the Hon'ble Apex Court. Relevant paras from the office memorandum reads as under:-

> *"7. The matter has been examined in consultation with D/o Expenditure and D/o Legal Affairs. It Is advised that in pursuance of the Order dated 06.09.2024 of the Hon'ble Supreme Court referred above, action may be taken to allow the increment on 1st July/1st January to the Central Government employees who retired/are retiring a day before it became due i.e. on 30th June/31st December and have rendered the requisite qualifying service as on the date of their superannuation with satisfactory work and good conduct for calculating the pension admissible to them. As specifically mentioned in the Orders of the Hon'ble Supreme Court, grant of the notional increment on 1st January/1st July shall be reckoned only for the purpose of calculating the pension admissible and not for the purpose of calculation of other pensionary benefits.*
>
> *8. It may also be noted that these instructions are being issued in compliance of the Interim Orders dated 06.09.2024 of the Hon'ble Supreme Court In MA Dy. No.2400/2024 without prejudice to the legal stand of the Union of India in the matter and without prejudice to any change of law in this regard. Further, the action taken shall be subject to the final outcome of the Review Petition (Dy. No.36418/2024) pending before the Hon'ble Supreme Court which is expected to be heard by the Apex Court in the week commencing 04.11.2024.*
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> *9. This issues with the concurrence of D/o Expenditure vide their Dy. No.08-09/2019-E.III.A(Vol.III) (3969602) dated 08.10.2024 and D/o Legal Affairs vide Computer No.E 128445 dated 30.09.2024."*

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It has further been jointly submitted by learned counsel for the parties that Miscellaneous Application Diary No.2400/2024 filed in Civil Appeal No.3933 of 2023 came up for consideration before the Hon'ble Apex Court on 20.02.2025. In terms of the order passed on the said date, Hon'ble Apex Court modified Clause (d) of the order dated 06.09.2024. Relevant portion of the order dated 20.02.2025 reads as under:-

> *"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."*
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> *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", 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.*
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> *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*

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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."

4(iii). Based upon the above orders, the State Finance Department has also issued instructions on 03.05.2025, which read as under: -

"From:

The Principal Secretary (Finance) to the Government of Himachal Pradesh.

To

All the Administrative Secretaries to the Government of Himachal Pradesh, Shimla-2.

Subject: Regarding annual increment which fell due on post next day of retirement, after one year full service for the purpose of pensionary benefits.

Sir/Madam,

I am directed to refer to the subject cited above and to say that many retirees of various Department/ Boards/ Corporations/ PSUs/Autonomous Bodies are claiming the benefits of annual increment, which fell due on next day of retirement for the purpose of pensionary benefits by filing court cases on the strength of the judgment dated 15.09.2017 passed by the Hon'ble High Court of Judicature at Madras in W.P No. 15732 of 2017 which was upheld by the Hon'ble Supreme Court vide judgment dated 23.07.2018 in SLP (Civil Diary No. 22283/2018). The operative part of the judgment dated 15.09.2017 passed by the Hon'ble High Court of Judicature at Madras is as under: -

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, through 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.

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> *The Hon'ble High Court of H.P is also ordering for granting similar benefits to the petitioners on the analogy of above judgment.*
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> *Now it has been decided by the Government that the Administrative Departments will settle such cases at their own level by granting the benefits of notional increment for pensionary benefits only."*

5. In view of above, this writ petition is disposed of by directing the respondents to consider the case of the petitioner for grant of notional increment and pension/ revised pension to her in light of the judgment dated 11.04.2023 passed by the Hon'ble Apex Court in ***Director (Admn. and HR) KPTCL & Ors.***[2] read with the directions issued in the orders dated 06.09.2024 & 20.02.2025 passed in ***Union of India & Anr. vs. M. Siddaraj***[3] and also keeping in view office instructions dated 03.05.2025 issued by the State Finance Department. This exercise shall be completed within six weeks. Copy of order so passed be also communicated to the petitioner.

The writ petition stands disposed of in the above terms, so also the pending miscellaneous application(s), if any.

Jyotsna Rewal Dua
Judge

October 26, 2026
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