

**HIGH COURT OF TRIPURA  
AGARTALA  
WP(C) No.739 of 2023**

**Santanu Debbarma**

Son of Late Manomohan Debbarma,  
resident of Sankar Chowmuhan, Krishnanagar,  
PO-Agartala, PS-West Agartala,  
District- West Tripura, Pin-799001.

----- Petitioners

Versus

**1. The State of Tripura,**

Represented by the Commissioner & Secretary  
to the GA (P&T) Department,  
Government of Tripura,  
New Secretariat Complex,  
Gurkhabasti, Agartala, PO-Kunjaban,  
PS-New Capital Complex,  
Sub-Division-Sadar, District-West Tripura.

**2. The Commissioner & Secretary, Finance Department**

Government of Tripura,  
New Secretariat Complex,  
Gurkhabasti, Agartala, PO-Kunjaban,  
PS-New Capital Complex,  
Sub-Division-Sadar, District-West Tripura.

**3. The Deputy Secretary, Finance Department**

(Establishment Section), Government of Tripura,  
New Secretariat Complex,  
Gurkhabasti, Agartala, PO-Kunjaban,  
PS-New Capital Complex,  
Sub-Division-Sadar, District-West Tripura.

**4. The Under Secretary, Finance Department,**

Government of Tripura,  
New Secretariat Complex,  
Gurkhabasti, Agartala, PO-Kunjaban,  
PS-New Capital Complex,  
Sub-Division-Sadar, District-West Tripura.

----- Respondents

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For Petitioner(s)	:	Mr. P. Roy Barman, Sr. Adv, Mr. K. Chakraborty, Adv.
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For Respondent(s)	:	Mr. D. Sarma, Addl. G. A.
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Date of hearing	:	13.12.2024
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Date of delivery of Judgment & Order	:	18.12.2024
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Whether fit for reporting	:	YES
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**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**Judgment & Order**

By filing this writ petition, the present petitioner has sought for the following reliefs:

- i) *Issue Rule*, calling upon the Respondents and each one of them, to show cause as to why a Writ of *Mandamus* and/or in the nature thereof, shall not be issued, *mandating/directing* them to revoke/rescind the impugned Letter dated 20.03.2021 & the impugned Letter dated 11.04.2022 (Annexures-2 & 4 respectively supra);
- ii) *Issue Rule*, calling upon the Respondents and each one of them, to show cause as to why a Writ of *Mandamus* and/or in the nature thereof, shall not be issued, *mandating/directing* them to *grant* one notional annual increment, for completion of one full year of service (w.e.f. 01.07.2018 to 30.06.2019), and thereupon, modify the PPO of the Petitioner in tune therewith, revise the pensionary benefits and monthly pension, and make payment of the arrears thereof, including all other *consequential benefits* flowing therefrom;
- iii) Call for the records, appertaining to this Writ Petition;
- iv) After hearing the parties, be pleased to make the Rule absolute in terms of (i) & (ii) above;
- v) Costs of and incidental to this proceeding
- vi) Any other Relief(s) as to this Hon'ble High Court may deem fit and proper;

2. Heard Learned Senior Counsel Mr. P. Roy Barman assisted by Learned Counsel Mr. K. Chakraborty appearing on behalf of the petitioner and also heard Learned Addl. G.A. Mr. D. Sarma appearing on behalf of the State-respondents.

3. Taking part in the hearing, Learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner was initially an employee of the Excise Department, Government of Tripura and while serving in the said department in the year 1991,

the petitioner was appointed on promotion to the Tripura Civil Service and in course of his employment, he served in the post of Additional Secretary, Tripura Civil Service (Senior Selection Grade), Government of Tripura and on attaining superannuation, the petitioner proceeded to retirement on 30.06.2019. According to the petitioner, as per Rule 11 of the Tripura State Civil Services (Revised Pay) Rules, 2009, all the Government employees are entitled to receive their respective yearly annual increments on the uniform date of 1<sup>st</sup> July, every year and accordingly, the petitioner used to get his yearly annual increment on the 1<sup>st</sup> day of July of every year but on promulgation of Tripura State Civil Services (Revised Pay) Rules, 2017 vide Rule 11 thereof, the said rule was modified to the extent that increment in respect of an employee appointed/promoted/granted financial up-gradation including MACPs, during the period between the 2<sup>nd</sup> day of January and 1<sup>st</sup> day of July (both inclusive) shall be granted on the 1<sup>st</sup> day of January of the following year and the increment in respect of an employee appointed/promoted/granted financial up-gradation including MACPs, during the period between the 2<sup>nd</sup> day of July and 1<sup>st</sup> day of January (both inclusive) shall be granted on the 1<sup>st</sup> day of July of the following year, hedged by a rider that an employee can be allowed to avail his normal increment on 1<sup>st</sup> day of July subject to exercise of option. And accordingly, the petitioner continued to receive his yearly annual increment upto 01.07.2018 and the same

was his last increment, as granted by the respondents. But the petitioner retired from service on 30.06.2019.

4. It was further submitted that having served for the period with effect from 01.07.2018 to 30.06.2019, the petitioner was duly entitled to receive his yearly annual increment for the said period but the respondents did not grant the same to the petitioner and as a result of which, the pensionary benefits and monthly pension of the petitioner were settled and paid, excluding the said last unpaid increment.

5. The petitioner being aggrieved submitted a representation requesting the Joint Secretary, GA (P&T) Department, Government of Tripura, to release his said yearly annual increment for his service rendered with effect from 01.07.2018 to 30.06.2019 (Annexure-1).

6. In response to his said representation, the Deputy Secretary, Department of Finance (Establishment Section), Government of Tripura by a letter bearing reference No.F.5(28)-Fin(E)/91 dated 20.03.2021 rejected the said claim of the petitioner on the purported premise that he was not on duty on the 1<sup>st</sup> day of July, 2019 (Annexure-2).

7. Thereafter, the petitioner filed a writ petition vide No.**WP(C) No.316 of 2021** before this High Court and this High Court by a judgment and order dated 13.12.2021 (Annexure-3) disposed of the said writ petition with the following observation:

**"15. Thus, the respondents are directed to take up this exercise whether the yearly increment can be released one day before the day on considering completion of**

**one year of service as required. The State Government in the Finance Department shall take up such exercise and give their decision taking all relevant considerations including the judgments of the Madras High Court and the Delhi High Court within a period of three months from the date of receiving a copy of this order. The release of the increment and its assimilation with the last pay would depend on such decision.**

**In terms of the above, this writ petition stands disposed of."**

**8.** Thereafter, the Under Secretary, Department of Finance, Government of Tripura issued an office Order dated 11.04.2022 disallowed the claim of the petitioner (Annexure-4).

**9.** Learned Senior Counsel further submitted that in view of the judgment dated 15.09.2017 passed by the Division Bench of Hon'ble Madras High Court in WP No.15732 of 2017 [P. Ayyamperumal Vs. The Registrar, CAT & Others] (Annexure-5), the petitioner is entitled to get one notional increment for the service rendered by him. Learned Senior Counsel further submitted that challenging the judgment of the Hon'ble Madras High Court, the respondents preferred one SLP before the Hon'ble Supreme Court of India which was numbered as SLP(C) No.22283 of 2018 and the Hon'ble Supreme Court by order dated 23.07.2018 (Annexure-6) was pleased to dismiss the said SLP filed by the respondents. Thus, the judgment dated 15.09.2017 delivered by Hon'ble Madras High Court attained finality.

**10.** Learned Senior Counsel in course of his hearing again drawn the attention of this Court that the similar subject matter was raised before the Hon'ble Supreme Court again in Civil Appeal No.2471 of 2023 (@ SLP(C) No.6185/2020) [The Director (Admn. And HR) KPTCL and Others Vs. C.P. Mundinamani & Ors.] and the Hon'ble Supreme Court again by judgment dated 11.04.2023 (Annexure-7) reported in

**2023 SCC Online SC 401** also laid down certain guidelines and affirmed that a Government servant superannuated on the earlier day of his date of increment shall be entitled to get the increment from the Department provided if he renders his service with good behavior and efficiently.

**11.** Lastly, Learned Senior Counsel submitted that from the facts and circumstances of the case, it is clear that the respondents have deprived the petitioner of his legitimate entitlement of one annual increment (for the period from 01.07.2018 to 30.06.2019). As a result of which the pensionary benefits and monthly pension of the petitioner have been decreased. The impugned communication dated 20.03.2021 and the impugned letter dated 11.04.2022 (Annexure-2 and 4) and non-consideration of annual increment had resulted in gross violation of the constitutional rights of the petitioner granted under Articles 14, 16 and 300A of the Constitution of India for which the present petitioner has sought for redress of the Court by this writ petition.

**12.** The State-respondents have contested the case by filing counter affidavit denying the assertions of the petitioner in the writ petition and it is further submitted that in the light of provisions of the fundamental rules like 9(21), 9(6), 17(1), 22, 26(a) and 56(a) Rule 5(2) of the adopted Pension Rules and provisions of ROP Rules 2017, a person appointed as a Government servant is entitled to pay and is also entitled to draw the annual increment as long as such Government servant discharges duties of the post but such Government servant may not be entitled to draw the pay and the

increment on the date after his retirement, as he ceases to discharge those duties to a post. It was further submitted that as per FR 17 read with FR 24 and FR 26, annual increment is given to a Government servant to enable him to discharge duty and draw pay and allowances attached to the post but if such Government servant ceases to discharge his duties by reason of attainment of the age of superannuation, he will not be entitled to draw pay and allowances and such employee be not entitled to any increment if it falls due after the date of retirement, be it on the next day of retirement or sometime thereafter.

Finally, the State respondents took the plea that last pay slip of the petitioner was issued with respect to 01.07.2018 and in this case, the petitioner had already become a pensioner on 01.07.2019. So, a pensioner cannot be allowed an increment. Hence, by the counter affidavit, the State-respondents prayed for dismissal of the writ petition.

**13.** In course of hearing, Learned Senior Counsel further submitted that in view of the judgment of the Hon'ble Madras High Court which was affirmed by Hon'ble Supreme Court later on and subsequent judgment of the Hon'ble Apex Court, it is clear that the present petitioner is also entitled to get the same benefit as ordered in the said case being a Government servant as he sincerely discharged his duties on that relevant point of time and with efficiency also.

**14.** On the other hand, in course of hearing Learned Addl. G.A., Mr. D. Sarma appearing on behalf of the State-respondents referring

the aforesaid rules of FR drawn the attention of the Court that those citations are not applicable in this present case because those cases were related to Central Government employees not related to the State Government employees and in this case, the present petitioner was a servant under the Government of Tripura and those principles of law laid down cannot be applied in this case and furthermore, the aforesaid provisions of the FR's are very much clear that on the day of annual increment, the present petitioner was not on duty. So, he was not discharging any duty as such he was not entitled to get any increment and the Finance Department, Government of Tripura rightly disallowed the claim of the petitioner.

**15.** I have heard detailed arguments of both the sides and gone through the relevant annexures submitted by the petitioner annexed with the writ petition and also the citations referred by the petitioner here in this case. There is no dispute on record that on the day of retirement, the petitioner was holding the post of Additional Secretary, Tripura State Civil Services (SSG). He went on superannuation/retirement on 30.06.2019 and he was given the last increment on 01.07.2018 but as the present petitioner went on retirement on 30.06.2019 so treating him that on 01.07.2019 he was not on duty, his claim was disallowed. Now, here in this writ petition, the crux question is whether the present petitioner is entitled to get the benefit as prayed for. Hon'ble Division Bench of Madras High Court in the said case bearing No.**WP. No.15732 of 2017** in para No.7 came to the observation that the petitioner of the said case completed one year full service on 30.06.2013 but the increment fell



due on 01.07.2013 on which date he was not on service but by the said judgment, Hon'ble Division Bench of Madras High Court directed the State-respondents to pay one notional increment for the period from 01.07.2012 to 30.06.2013 as he completed one full year of service though his increment fell due on 01.07.2013 for the purpose of pensionary benefits and not for any other purpose. The relevant portion of the said judgment runs as follows:

"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."

**16.** The said judgment was challenged before the Hon'ble Supreme Court of India in **SLP Diary No.22283 of 2018** and the Hon'ble Supreme Court by order dated 23.07.2018 dismissed the Special Leave petition. The operative portion of the said order runs as follows:

"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."**

**17.** Similar issue was raised before the Hon'ble Supreme Court of India in **Civil Appeal No.2471 of 2023 (@ SLP(C) No.6185/2020)** wherein the judgment of Hon'ble High Court of Karnataka at Bengaluru in Writ Appeal No.4193/2017 was challenged and the Hon'ble Supreme Court of India by the said judgment dated 11.04.2023 reported in **2023 SCC OnLine SC 401** was pleased to dismiss the appeal preferred by the State-appellants. In para Nos.18 to 21 of the said judgment, the Hon'ble Apex Court elaborately discussed the entire facts and circumstances of the case including the judgments referred by some other High Courts in Delhi High Court in the case of Gopal Singh Vs. Union of India and Ors. (Writ Petition (C) No.10509/2019 dated 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) although the Full Bench of the Andhra Pradesh High Court, Himachal Pradesh High Court and Kerala High Court took a contrary view. The relevant portion of the judgment of Hon'ble Supreme Court dated 11.04.2023 runs as follows:

**"18. 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:-

"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 it 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."

19. 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 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 it 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.”

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 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 Takhtsinh 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."**

**18.** In course of hearing, Learned Addl. G.A., Mr. D. Sarma submitted that the cases referred by the present petitioner in the given case are different and those cases were relevant in respect of Central Government employees not in respect of State Government employees because in P. Ayyamperumal Vs. The Registrar, CAT & Others (Annexure-5), the governing rule was Central Civil Service (Revised Pay) Rules, 2008 and in the instant case, the governing rule was Tripura State Civil Service (Revised Pay) Rules, 2009. But it is the settled position of law that after promulgation of every Central revised pay rules, the same are adopted by the respective States and in the same manner, the State of Tripura also adopted the Central Civil Services (Revised Pay) Rules, 2008 in the name and style of the Tripura State Civil Services (Revised Pay) Rules, 2009 with slight modification. Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008 and Rule 11 of the Tripura State Civil Services (Revised Pay) Rules, 2009 are almost similar and identical applicable to Central and State Government employees respectively which prescribes that all the Government employees are entitled to receive their respective yearly annual increment on the uniform date of 1<sup>st</sup> July, every year and basing upon the same rule, the Hon'ble Madras High Court

considered the case of the petitioner and granted one yearly increment accrued on the date of his retirement.

**19.** From the principles of law laid down by the Hon'ble Apex Court, it appears that 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 the 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. The moment a Government servant rendered service for a specified period with good conduct in a time scale 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 and therefore, as such, he is entitled to the benefit of annual increment on the eventuality of having served for a specific period of one year with good conduct efficiently. In such a situation, there was no scope to deny the annual increment which the employee/servant earned/is entitled to for rendering the service with good conduct and efficiently.

**20.** Here in the given case, there is no evidence on record that there was any adverse remark/misconduct by the petitioner during the period the petitioner served in the department. Situated thus, taking the plea by the State-respondents that the said principle of law laid down by the Hon'ble Apex Court cannot be applied in the present case on the ground that the facts of that case are not similarly situated with the facts of the present case and any contrary view

would lead to the arbitrariness and denying a Government servant his legitimate right of annual increment which the employees entitled for rendering in the services over a year with good behavior and efficiency. Thus, from the facts and circumstances of the present case, it appears that the State-respondent authority without any basis rejected the claim of the petitioner stating that on 01.07.2019 he was not on duty and as such, the stand taken by the state-respondent that the present petitioner is not entitled to any annual increment which he earned for serving the period with effect from 01.07.2018 to 30.06.2019 cannot be legally sustained.

**21.** In the result, the writ petition filed by the present petitioner is hereby allowed. The memorandum dated 20.09.2021 and subsequent communication dated 11.04.2022 (Annexures-2 & 4) accordingly stands set aside. The petitioner shall be given one notional increment for the period from 01.07.2018 to 30.06.2019 as he has completed one full year of service though his increment fell due on 01.07.2019 i.e. on the next day of his retirement, for the purpose of pensionary benefits only. But considering the facts and circumstances of the case, no order is passed as to costs.

With this observation, this writ petition is thus allowed.

Pending applications(s), if any, also stands disposed of.

**JUDGE**