

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**BENCH AT AURANGABAD****COMMON ORDER IN O.A. NOS. 475, 476 AND 477 ALL OF 2022****(1) ORIGINAL APPLICATION NO. 475 OF 2022**

DIST. : BEED

Dnyanoba s/o Wamanrao Jadhav,
Age : 60 years, Occu.: Service (Retd.),
R/o. Kranti Nagar,
Near Dr. Pansambal Hospital,
Nagar Road, Beed,
Tq. Dist. Beed.

.. **APPLICANT****VERSUS**

1. The State of Maharashtra,
Through the Secretary,
Department of Revenue,
Mantralaya, Mumbai.
2. The District Collector,
Beed, Tq. Dist. Beed.
3. The Tahsildar, Beed,
Tq. Dist. Beed.
4. The Accountant General (A&E) II,
Pension Branch, 206/5,
Samaj Kalyan Office Rd.,
Civil Lines, Nagpur-440 001.

.. **RESPONDENTS****WITH****(2) ORIGINAL APPLICATION NO. 476 OF 2022**

DIST. : BEED

Prakash Manohar Kulkarni,
Age : 69 years, Occu.: Service (Retd.),
R/o. Bhagyoday Niwas, Lami Baugh Colony,

Behind Neelkamal Hotel,
Nagar Road, Beed.

.. **APPLICANT**

VERSUS

1. The State of Maharashtra,
Through the Secretary,
Department of Revenue,
Mantralaya, Mumbai.
2. The District Collector,
Beed, Tq. Dist. Beed.
3. The Tahsildar, Beed,
Tq. Dist. Beed.
4. The Accountant General (A&E) II,
Pension Branch, 206/5,
Samaj Kalyan Office Rd.,
Civil Lines, Nagpur-440 001.

.. **RESPONDENTS**

WITH

(3) ORIGINAL APPLICATION NO. 477 OF 2022

DIST. : BEED

Ashok Shankarrao Shelke,
Age : 63 years, Occu.: Service (Retd.),
R/o. Champavati Nagar,
In front of RTO Office,
Barshi Road, Near Petrol Pump,
Beed, Tq. Dist. Beed.

.. **APPLICANT**

VERSUS

1. The State of Maharashtra,
Through the Secretary,
Department of Revenue,
Mantralaya, Mumbai.
2. The District Collector,
Beed, Tq. Dist. Beed.

3. The Deputy Collector,
Employment Guarantee Scheme,
Tq. Dist. Beed.
4. The Tahsildar, Shirur Kasar,
Tq. Shirur Kasar, Dist. Beed.
5. The Accountant General (A&E) II,
Pension Branch, 206/5,
Samaj Kalyan Office Rd.,
Civil Lines, Nagpur-440 001.

.. **RESPONDENTS**

APPEARANCE :- Smt. Vinaya Mule, learned counsel holding
for Shri C.V. Dharurkar, learned Advocate for
the applicants in all these matters.

: S/shri S.K. Shirse, D.R. Patil and Smt.
Deepali S. Deshpande, learned Presenting
Officers for the respondents in respective
matters.

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 31st MARCH, 2023

ORAL - ORDER

Heard Smt. Vinaya Mule, learned counsel holding for Shri C.V.
Dharurkar, learned counsel for the applicants in all these matters
and S/shri S.K. Shirse, D.R. Patil and Smt. Deepali S. Deshpande,
learned Presenting Officers for the respondents in respective
matters.

2. The learned Presenting Officer has tendered across the bar the affidavit in reply on behalf of respondent nos. 2 & 3 in O.A. No. 476/2022. It is taken on record and copy thereof has been supplied to other side.

3. In all these 3 Original Applications the issue raised and prayers made are identical. In the circumstances all these matters are heard together and I deem it appropriate to dispose of all these matters by a common reasoning.

4. The applicants in all these applications have retired from the Government services on 30th June of their respective year of retirement. Their next increment was due on 1st July of the respective year in which they have retired. Since the applicants retired on attaining the age of superannuation before 1st July of their respective year of retirement, the respondents did not grant them the benefit of increment of the said year. In all these matters the applicants have prayed for holding them eligible for next increment, which fall due one day after their retirement.

5. The learned counsel has relied upon the judgment of the Hon'ble Division Bench of Hon'ble Bombay High Court, Bench at Aurangabad recently delivered on 12.10.2022 in the case of **Shri Ramesh Eknath Suryawanshi and Others Vs. the State of**

Maharashtra through its Chief Secretary and Others, WP No. 10272/2022 as well as, the judgments earlier delivered by this Tribunal at principal seat at Mumbai and by this Bench in support of his case and has prayed for allowing these applications.

6. The learned Presenting Officer fairly conceded that the judgments relied upon by the learned counsel for the applicant are supporting the contentions raised and prayers made by the applicants in their respective OAs. The learned PO therefore submitted for passing appropriate orders.

7. It is not in dispute that all these applicants have retired after attaining the age of superannuation on 30th June of the respective year of retirement. It is also not disputed that vide orders impugned in the respective OAs the respondents have refused the request made by the applicants for grant of next increment, which fell due on the next day of their retirement.

8. I deem it appropriate to reproduce herein below para nos. 3 & 4 of the judgment delivered by the Hon'ble Bombay High Court, Bench at Aurangabad on 12.10.2022 in the case of **Shri Ramesh Eknath Suryawanshi and Others** (cited supra), which read thus :-

“3. The issue raised is no longer res integra, having been concluded by the learned Division Bench of the Madras High

Court, vide judgment dated 15.09.2017, in WP No.15732/2017, filed by P. Ayyamperumal Vs. The Registrar, Central Administrative Tribunal and others, which judgment has been sustained by the Hon'ble Supreme Court, vide order dated 23.07.2018, in Special Leave Petition (Civil) Diary No.22283/2018. Even this Court has passed several orders granting such benefits, which have been sustained by the Hon'ble Supreme Court.

4. In view of the above, this petition is partly allowed. The petitioners are entitled to the notional addition of the last yearly increment for the purpose of calculating their pension, gratuity, earned leave, commutation benefits etc. In so far as arrears of the benefits are concerned, the petitioners would be entitled for the same for a period of three years, preceding the date of filing of this petition or as per actuals, whichever is less. Such arrears should be calculated and be paid to the petitioners, on or before 30.12.2022 .”

9. It will also be useful to refer to the discussion made by the principal seat of this Tribunal at Mumbai in the case of **Shri Sadashiv Kashinath Inamke & Ors. Vs. the State of Maharashtra & Ors., O.A. No. 950/2019 with other OAs** on 5.7.2022. Considering the earlier judgments on the issue the Tribunal has recorded following finding in para 15 of the said judgment, which reads thus :-

“15. In view of the aforesaid legal position, the Applicants cannot be deprived of benefit of increment which was due on 1st July of the concerned year. All that learned P.O. submits that since the Applicants have approached belatedly, the actual monetary benefits be restricted to three years preceding to filing of Original Applications. I find merit in her submission on the point of arrears. Indeed, the Applicants have filed these proceedings long after retirement when they got knowledge of the judgment of the Hon'ble Supreme Court giving benefit of increment due on next day of retirement. Be that as it may, insofar as arrears are concerned, it will have

to be restricted to three years preceding to the date of filing proceeding.”

10. In view of the judgments relied upon by the learned counsel for the applicants there has remained no doubt that the employees who stood retired on 30th June of their respective year of retirement on attaining the age of superannuation, must be held entitled for next increment which fell due on immediately next day of their retirement and all the consequential benefits deserve to be granted in their favour. Hence, the following order :-

ORDER

- (i) All these Original Applications stand allowed.
- (ii) The Applicants are held entitled for increment due on 1st July of the concerned year of their retirement. It shall be reckoned with for the purpose of pension and gratuity and other retiral benefits subject to rider that the Applicants would be entitled to arrears of monetary benefits for the period of three years only preceding the date of filing Original Applications.
- (iii) The Respondents are directed to make payment of arrears accordingly within three months from today and also to ensure that revised pension is paid accordingly.
- (iv) No order as to costs.

VICE CHAIRMAN