

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 746 OF 2022

DISTRICT:- JALNA

- 1. BABARAO DEVIDASRAO TATHE,**
Age: 61 years, Occu. Retired as A.S.I.,
R/o. Savitra Niwas, Laxmi Nagar,
Near Anand Public School,
Mantha Road, Jalna.
- 2. MANIK SAINAJI HANKARE**
Age : 61 years, Occu.: Retired as A.S.I.,
R/o. Salman Colony, Shiv Road,
Nanded.
- 3. DASHRATH DEVRAO JADHAV**
Age : 61 years, Occu.: Retired as A.S.I.,
R/o. Choudhary Nagar, Mantha Road,
Behind Poddar School, Jalna.

.. APPLICANTS.

V E R S U S

- 1) The State of Maharashtra,**
Through : Secretary,
Home Department,
Mantralaya, Mumbai-32.
- 2) The Director General of Police,**
Sahid Bhagatsing Nagar, Culaba,
Old Vidhan Bhavan, Mumbai-39.
- 3) The Commandant,**
State Reserve Police Force,
Group No. 3, Jalna.
- 4) The Accountant General-II,**
Nagpur, Civil Lines,
Nagpur.

.. RESPONDENTS.

APPEARANCE : Shri Kakasaheb B. Jadhav, learned
counsel for the applicants.

: Shri M.P. Gude, learned Presenting
Officer for the respondent authorities.

CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN

DATE : 25.01.2023

ORAL ORDER

Heard Shri Kakasaheb B. Jadhav, learned counsel for the applicants and Shri M.P. Gude, learned Presenting Officer for the respondent authorities.

2. The applicants have preferred the present Original Application seeking directions against the respondents to grant them annual increment which fell due on 1.7.2018 claiming that since they have retired on 30.6.2018, they have discharged the duties in the preceding whole year i.e. from 1.7.2017 to 30.6.2018 are entitled for the said annual increment.

3. The applicant No. 1 has submitted application on 24.5.2022 and applicant Nos. 2 & 3 have filed applications on 1.6.2022 to the respondent authorities praying for grant of annual increment, which fell due on 1.7.2018. However, the respondents did not decide the said applications/representations. The applicants have, therefore, approached this Tribunal.

4. The learned counsel appearing for the applicants has relied upon the judgment of the Division Bench of Hon'ble

Bombay High Court, Bench at Aurangabad 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, in support of his contentions and has prayed for allowing these applications.

5. The learned Presenting Officer fairly conceded that the judgments relied upon by the learned counsel for the applicants are supporting the contentions raised and prayers made by the applicants in the present Original Application. The learned Presenting Officer, therefore, submitted for passing appropriate orders. Learned Presenting Officer, however, further submitted that the Hon'ble Supreme Court in SLP (Civil) Nos. 4722/2021 by order dated 5.4.2021 has granted Stay in identical matters in which issue of grant of benefit of one notional increment due on 1st July to the employees who retired on 30th June, is involved. The learned Presenting Officer, in the circumstances, submitted that if the Court is inclined to allow the present Original Application, the same shall be allowed subject to outcome of the aforesaid SLPs pending before the Hon'ble Supreme Court.

6. It is not in dispute that all these applicants have retired after attaining the age of superannuation on 30th June, 2018. It

is also not disputed that the applications filed by the applicants to the respondents requesting to grant increment in their favour which fell due on 1st July, 2018 are not decided till today and they are pending.

7. 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 .”

8. 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.”

9. In view of the law laid down in the above 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 immediate next day of their retirement with all the consequential benefits deserve to be granted in their favour. Hence, the following order:-

ORDER

(i) The applicants are held entitled for annual increment due on 1st July, 2018 and all consequential benefits arising therefrom.

(ii) The respondents shall pay the arrears of monetary benefits as aforesaid restricted to preceding three years from the date of filing of the O.A. within three months from the date of this order, by obtaining the necessary undertaking/bond of indemnity from the applicants for refund of the amount, which may be paid to them in the event the Hon'ble Apex Court in the pending SLP rules that no such increment was payable.

(iii) No order as to costs.

VICE CHAIRMAN

O.A.NO.746-2022 (SB)-2022-HDD-Increment