

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 433 of 2014 (S.B.)**

Ramsajiwan S/o Kawduji Lihare,  
Aged about 65 years, Occ. Retired (Multipurpose Worker),  
R/o at Post Ratnara, Tahsil and District Gondia.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Secretary,  
Health Department, Mantralaya,  
Mumbai-32.
- 2) Joint Director of Health Services,  
Malaria & Filaria Division, Ayogya Bhawan,  
Opposite Vishrant Wadi Police Station,  
Yerwada, Pune-411 006.
- 3) District Malaria Officer,  
Health Department, Kapse Bhawan,  
near Shitala Mata Mandir,  
Subhash Garden Road, Civil Lines,  
Gondia-441 601, Tq. and Dist. Gondia.
- 4) The Accountant General (A&E)-II,  
Maharashtra, Civil Lines,  
Nagpur.

**Respondents**

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**Shri G.G. Bade, Advocate for the applicant.**

**Shri A.M. Ghogre, learned P.O. for the respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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## JUDGMENT

**(Delivered on this 8<sup>th</sup> day of January,2018)**

Heard Shri G.G. Bade, Id. Counsel for the applicant and  
Shri A.M.Ghogre, Id. P.O. for the respondents.

2. The applicant was appointed as Multipurpose Worker in the pay scale of Rs.975-25-30-1660/- on 27/01/1989. On 01/01/2006 6<sup>th</sup> Pay Commission was made applicable to all Government servants of State of Maharashtra. The applicant came to be retired on 31/03/2007.

3. On 30/10/2009 the Government of Maharashtra issued a G.R. for implementation of 6<sup>th</sup> Pay Commission for the employees getting retired after 01/01/2006. The Corrigendum was issued to the said G.R. whereby it was specifically stated that the employees who got retired in between 01/01/2006 to 26/01/2009 will be entitled for pension which is 50% of the last pay plus higher grade pay.

4. At the time of retirement the applicant was receiving salary, i.e., basic pay of Rs.10,480/- plus grade pay of Rs. 2400/-. The applicant made a representation on 29/04/2010 to the Accountant General, Nagpur for correction of his pension and revised pay scale. He also made representation to the District Malaria Officer and Joint Director of Health Services, Pune and lastly on 5/5/2014 to

respondent no.3. The applicant prays that his pension be revised as per rules with interest @10% p.a. and difference of arrears on such revised pay be paid to him.

5. The respondent nos. 3 and 4 have filed separate reply-affidavit. It is stated that the proposal for revision of pensionary benefits due to 6<sup>th</sup> Pay Commissioner was received by respondent no.4., i.e., the Accountant General, Nagpur on 16/02/2010. The case of the applicant was finalised as per the provision of para 5.4 of the G.R. dated 30/10/2009 r/w para 4.5 (i) of the G.R. dated 27/02/2009. It is clearly mentioned in para 5.4 of the said G.Rs. that in case of employees who retired before the date 27/02/2009, the rules existing before 27/02/2009 shall be applicable. The applicant got retired on 31/03/2007 and the rules existing before 27/02/2009 were made applicable to his case since his case is covered under the provisions of G.R. dated 30/10/2009.

6. It is further stated that as per para 5.4 of the G.R., the Government servant who retired on or after 01/01/2006, but before 27/02/2009 will be governed by the Rules/Orders which were in force before coming into effect of that G.R. and as such the pension had been revised by taking average of last 10 months pay.

7. It is further stated that the G.R. was challenged before the Hon'ble High Court, Bench at Aurangabad in W.P.Nos. 8985/2011, 8908/2011, 135/2012, 8734/2011, 132/2012 and 3934/2013. The cut-off date as prescribed in the G.R. dated 27/02/2009 was challenged in the said Petitions. The Hon'ble High Court, Bench at Aurangabad vide order dated 9/5/2014 was pleased to declare that cut-off date as unconstitutional. The State of Maharashtra has however filed SLP before the Hon'ble Apex Court and the same was pending.

8. The crux of the matter depends on the interpretation of G.R. dated 30/10/2009. The said G.R. was challenged in the W.Ps. before the Hon'ble High Court, Bench at Aurangabad as already stated. The Hon'ble High Court, Bench at Aurangabad in those W.Ps. have passed an order on 9/5/2014. In the said Judgment the Hon'ble High Court has observed as under :-

*“ (22) We hold the cut-off date 27<sup>th</sup> February,2009 prescribed in Government Resolution dated 30<sup>th</sup> October,2009 for payment of revised pension under the Maharashtra Civil Services (Pension) Rules,1982, making it applicable to those employees who retired from 27<sup>th</sup> February, 2009 and not to those employees, who retired in between 1<sup>st</sup> January,2006 to 26<sup>th</sup> February,2009, as unconstitutional.*

*(23) In the light of discussion herein above, as a sequel to the above, we direct that within three months from the date of receipt/production of copy of this order, the State Government*

*shall pay to the petitioners and other similarly situated employees, the difference of the pension and revised pension payable.”*

9. The aforesaid Judgment has been challenged before the Hon'ble Supreme Court of India in Special Leave to Appeal (c) Nos. 13140-13151/2015 in the case of **State of Maharashtra & Ors. Vs. Savitribai Narsayya Guddapa etc.** The Hon'ble Apex Court vide order dated 11/10/2017 in those Special Leave to Appeals., was pleased to dismiss the appeal and has observed as under :-

*“ When the benefit has been given of the pay scale on 01/01/2006, the persons who had retired upto 26/02/2009 could not have been deprived of the benefit of revised salary for purpose of pension which was to be paid to them. In view of the aforesaid and also agreeing with the reasoning employed by the High Court, we are not inclined to interfere. The special leave petitions are dismissed.”*

10. In view of the aforesaid decision given by the Hon'ble Apex Court and the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad, the issue has been settled and the benefit of 6<sup>th</sup> Pay Commission to the persons who retired upto 26/02/2009 cannot be denied. The cases of the applicants are therefore squarely covered by the Judgment delivered in W.P.Nos. 8985/2011, 8908/2011, 135/2012, 8734/2011, 132/2012 and 3934/2013 as referred above decided by the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad. In view thereof, the following order :-

**ORDER**

The O.A. is allowed. The respondents are directed to pay pension to the applicant as per revised rules in view of the Judgment delivered by the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad in W.P.Nos. 8985/2011, 8908/2011, 135/2012, 8734/2011, 132/2012 and 3934/2013 on 09/05/2014 and also in view of the decision delivered by the Hon'ble Apex Court in SLP (c) Nos. 13140-13151/2015 on 11/10/2017. The pension shall be revised accordingly and the arrears be paid within three months from the date of this order.

**Dated :- 08 /01/2018.**

**(J.D. Kulkarni)  
Vice-Chairman (J).**

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