***MAHARASHTRA ADMINISTRATIVE* TRIBUNAL,**

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.673/2018. (S.B.)

Suresh Rambhau Borade,
Aged about 69 years,
Occ-Retired Govt. Servant,
R/o Plot No. A-30, Vitthal Nagar No.1,
Near Uday Nagar Chowk, Nagpur-34. **Applicant.**

-**Versus-**

1) The State of Maharashtra,
Through its Secretary,
Department of Finance,
Mantralaya, Mumbai-400 032.

2) The Food Grain Distribution Officer,
City Food Wing, Civil Lines, Nagpur.

3) The Accountant General (A & E)-II,
(M.S.), Nagpur.

4) The Senior Treasury Officer,
Nagpur. **Respondents**

ORIGINAL APPLICATION NO.674/2018.

Ashok Pandurang Wadyalkar,
Aged about 70 years,
Occ-Retired Aval Karkun,
R/o 399, Naik Road, Mahal,
Nagpur. **Applicant.**

-**Versus-**

1) The State of Maharashtra,
Through its Secretary,
Department of Finance,
Mantralaya, Mumbai-400 032.

2) The Food Grain Distribution Officer,
City Food Wing, Civil Lines, Nagpur.

3) The Accountant General (A & E)-II,
(M.S.), Nagpur.

4) The Senior Treasury Officer,
Nagpur. **Respondents**

Shri Bharat Kulkarni, the learned counsel for the applicants.
Shri A.M. Khadatkar, the learned P.O. for the respondents.

Coram:-Shri J.D. Kulkarni,
Vice-Chairman (J)

ORAL ORDER

(Passed on this 8th day of January 2019.)

Heard Shri Bharat Kulkarni, the learned counsel for the applicants, Shri A.M. Khadatkar, the learned P.O. for the respondents.

2. The applicants have claimed that the respondents be directed to correct the fixation of pension of 50% on last pay while granting the second time bound benefit in the pay scale of Rs. 9300-34800 with grade pay of Rs. 4300/- w.e.f. 1.4.2010 and further to pay

arrears of unpaid pension amount the applicants were denied the said benefit, in view of the G.R. dated 30.10.2009, a copy of which is placed on record at page Nos. 27 to 35 (both inclusive). This was done in view para No. 5.4 of the said G.R. which reads as under:-

> "**५.४:-** परिस्छेद ५.१, ५.२ व ५.३ मधील तरतुदी दि. २७.२.२००९ पासून अस्तित्वात येतील व या दिनांकास किवा त्यानंतर सेवानिवृत्त होणाऱ्या कर्मचाऱ्यांना त्या लागू होतील. दि. १.१.२००६ रोजी किवा त्यानंतर परंतु दि. २७.२.२००९ पूर्वी सेवानिवृत्त होणाऱ्या कर्मचाऱ्यांना त्यावेळी अस्तित्वात असलेले नियम / आदेश लागू राहतील."

3. This G.R. has been challenged before the Hon'ble High Court in W.P. No. 6855/2014. The Hon'ble High Court of Judicature at Bombay, Bench at Nagpur has been pleased to deliver the judgment in number of writ petitions on 19.1.2015. The cut off date in the G.R. has been held illegal with following observations:-

> "We hold the cut off dated 27.2.2009 prescribed in the G.R. dated 30.10.2009 for payment of revised pension under the M.C.S. (Pension) Rules, 1982, making it applicable to those employees who retired from 27.2.2009 and not to those employees who retired between 1.1.2006 to 26.2.2009, as unconstitutional."

4. Admittedly, the applicant in O.A. No. 673/2016 has retired on superannuation on 31.1.2007 whereas the applicant in O.A. No. 674/2016 has retired on superannuation on 31.12.2006 i.e. in between 1.1.2006 to 26.2.2009 and have been denied the benefit I view of G.R. dated 31.10.2009, since the said G.R. has been held unconstitutional. To that effect, the applicants are entitled to revised pay fixation.

5. The Government has also issued a G.R. dated 27.12.2018 (a copy of which is placed on record as Annexure “X-1”). The said G.R. has been issued in pursuance of the Hon’ble High Court’s order already referred to and now the Government has decided to grant the benefit to all the employees irrespective of the fact that whether they retired in between 1.1.2006 to 26.2.2009. There is no reason as to why the Accountant General shall not sanction such a revised pension to the applicants. Hence, I proceed to pass the following order:-

ORDER

(i) O.As are allowed in terms of prayer clause 9 (A).

(ii) The respondents are directed to revise the pension of the applicants in view of G.R. dated 27.12.2018.

(iii) Necessary order shall be passed within a period of four weeks from this order.

(iv) Since the applicants' case is covered by the judgment of the Hon'ble High Court also, the respondents are directed to issue order of correct fixation of the applicants' pay in view of G.R. dated 27.12.2018 within **four weeks**.

(v) No order as to costs.

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

Dt. 8.1.2019.

Pdg.