

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 689 OF 2022

DISTRICT:- LATUR

1. Madhav S/o Balaji Marde,
Age: 62 years, Occu. Pensioner,
R/o. Pragatinagar, LIC Colony,
Latur, Tq. & Dist. Latur.
2. Laxman S/o Tukaram Malwadkar
Age : 64 years, Occu.: Pensioner
R/o. Parvatiniwas Hatnagar Road,
Latur, Tq. & Dist. Latur.
3. Jabbar Khan Maheboob Khan Pathan
Age : 64 years, Ocu.: Pensioner
R/o. New Bhagyanagar, MIDC
Ring Road, Latur,
Tq. & Dist. Latur.
4. Waman S/o Baburao Shinde,
Age : 55 years, Occu. Service,
R/o. Dnyaneshwar Nagar Latur,
Tq. & Dist. Latur.

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APPLICANTS

V E R S U S

1. The State of Maharashtra,
Through its Secretary,
Irrigation and Water Resources
Department, Mantralaya,
Mumbai – 400 032.
2. The State of Maharashtra
Through its: Principal Secretary
Finance Department,
Mantralaya, Mumbai-32.
3. The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai-32.

4. The Superintending Engineer,
Vigilance Unit, Aurangabad,
Snehanagar Aurangabad
Tq. & Dist. Aurangabad.
5. The Superintending Engineer,
Beed Irrigation Project Circle
Parli (V), Tq. Ambajogai,
Dist. Beed.
6. The Executive Engineer,
Latur Minor Irrigation Division
Latur, Tq. & Dist. Latur.

.. RESPONDENTS.

APPEARANCE : Shri K.G. Salunke, learned counsel
for the applicants.

: Shri S.K. Shirse, learned Presenting
Officer for the respondent authorities.

: Shri G.N. Patil, learned counsel for
respondent Nos. 5 & 6.

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

DATE : 14.03.2023

ORAL ORDER

Heard Shri K.G. Salunke, learned counsel for the applicants, Shri S.K. Shirse, learned Presenting Officer for the respondent authorities and Shri G.N. Patil, learned counsel for respondent Nos. 5 & 6.

2. It is the grievance of the applicants that though two advance increments were granted to them as a reward for their

excellent performance in the relevant period, the said benefit has not been actually extended to them on the ground that vide Government Resolution dated 24.8.2017 while revising the pay scales of the employees as per the recommendations of 6th Pay Commission, the Government has directed not to extend the benefit of advance increments granted during the period between 1.10.2006 and 1.10.2015. Shri K.G. Salunke, learned counsel appearing for the applicants submitted that the Hon'ble Bombay High Court while deciding the Writ Petition No. 2699 of 2018 with connected Writ Petitions, in its order dated 3.4.2019 has ruled that the Government Resolution dated 24.8.2017 will have prospective effect and not retrospective effect and in that case the benefit that was accorded to the Government employees for their excellent work in the years 2006, 2007 and 2008 shall not be withdrawn and if any recovery is made in pursuance to the same, the same shall be refunded to the employees. The learned counsel submitted that in the present matter though the specific order has not been passed thereby withdrawing the advance increments granted in favour of the present applicants, by not extending said benefit and not by considering the said increments while revising the pay of the applicants as per the recommendations made by 6th Pay Commission, the respondents have impliedly withdrawn the

said benefits. The applicants in the circumstances have approached this Tribunal seeking directions against the respondents to extend the said benefit of two advance increments granted to them w.e.f. 1.10.2008 vide orders passed on 12.3.2009 and 18.7.2009.

3. Respondent nos. 5 & 6 have filed affidavit in reply opposing the contentions raised in the application relying on the Circular dated 3.7.2009 issued by the Government, whereby it was directed to temporarily fix the pay of the employees without giving benefit of additional increments granted in favour of such employees. The reliance is also placed on the G.R. dated 24.8.2017, whereby the Government has resolved not to give benefit of advance increments granted during the period between 1.10.2006 and 1.10.2015. It is further contended that the applicants 1, 2 & 3 have accepted the revised pay scale fixed without considering the advance increments without lodging any protest and have thus waived their right to agitate the said issue. It has also been contended that the judgment of the Hon'ble High Court in Writ Petition No. 1269/2018 is about recovery directed of the benefit already given of advance increments and does not contain any direction for extending such benefit after the Government employees have opted for

fixation of their pay as per the recommendations of 6th Pay Commission. On the aforesaid ground the respondents have prayed for rejecting the application.

4. I have duly considered the submissions made on behalf of the applicants and the respondent authorities. It is not in dispute that all four applicants have been granted two advance increments w.e.f. 1.10.2008. It is further not in dispute that the said two advance increments have not been considered while revising the pay of these applicants as per the recommendations of 6th Pay Commission because of G.R. dated 24.8.2017, whereby the Government has resolved not to extend the benefit of advance increments for the period wherein revised pay scale as per the recommendations of 6th Pay Commission has been given to the Government employees. The similar issue was before the Hon'ble High Court in Writ Petition No. 12699 of 2018 and while deciding the said Writ Petition as noted hereinabove the Hon'ble High Court held that the G.R. dated 24.8.2017 cannot be retrospectively made applicable. The contention of the respondents is that in the said matter the recovery was directed from the concerned employees of the advance increments granted in their favour and therefore the said judgment would not apply in the facts of the present case,

wherein the increments have not been granted in favour of the applicants. The argument so made is fallacious. The Hon'ble Division Bench of High Court when has ruled that the G.R. dated 24.8.2017 cannot be made applicable retrospectively, it means that the increments granted for excellent work done by the Government employees in the year 2006, 2007 and 2008 cannot be retrospectively withdrawn. Thus, it is immaterial whether the benefit was actually extended or not extended. In the said Writ Petition also the benefit was extended in favour of some of the petitioners, whereas it was not extended to some of the petitioners. The said judgment thus would very well apply to the facts of the present case. If the applicants were granted two advance increments on the basis of the erstwhile pay scale, the respondents are bound to extend the said benefit to the applicants. The Original Application, therefore, deserves to be allowed and is accordingly allowed in terms of prayer clause (B). There shall be no order as to costs.

VICE CHAIRMAN

O.A.NO.689-2022 (SB)-2022-HDD-Increment