

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 75/2020 (D.B.)**

1. Nagorao S/o Deola Jadhav, Age. 58 Years, Occu.: Retired, A/p. Tirupati Nagar, H. No. 10, Lohara Road, Yavatmal, Tq. & Dist. Yavatmal.
2. Md. Ashfaq Shaikh Ahemad, Age. 60 Years, Occu.: Retired, A/p. Patasi, Lakh, Tq. Darwa, Tq. Darwa Dist. Yavatmal.
3. Ramdas S/o Vithuji Bhure, Age. 59 Years, Occu.: Retired, A/p. Pahapal Tq. Kelapur, Tq. Kelapur, Dist. Yavatmal.
4. Rajendra S/o Panditrao Wardekar, Age. 59 Years, Occu.: Retired, At. Patel Nagar, Plot No. 43, Near Vrunda Vasahat, Post. Sainagar, Amravati, Tq. & Dist. Amravati.
5. Zhaduji S/o Shankar Sardar, Age. 62 Years, Occu.: Retired, A/p. pawansut Nagar, Shikshak Colony, Mehkar, Tq. Mehkar Dist. Buldhana.
6. Devanand S/o Yosefrao Salwe, Age. 63 Years, Occu.: Retired, A/p. Maleria Colony, Pawasale layout, Kaulkhed Khadan, Tq. & dist Akola.
7. Shaikh Nasir Husain, Age. 59 Years, Occu.: Retired, A/p. Saba Appt. 1st floor, Flat No. 5 Telipura Chowk, Tq. & Dist. Akola.
8. Abdul Jawed Abdul Mannan, Age. 57 Years, Occu.: H.S, At. Alfa Corner, Deepak Chowk, Tq. & Dist. Akola.
9. Vishnu S/o Dnyandev Deokar, Age. 40 Years, Occu. M.P.W. A/p District Maleria Office, Tq. & Dist. Buldhana.
10. Ramesh S/o Tukaramji Meshram, Age. 61 Years, Occ.: Retired, A/p. Sanjay Gandhi Nagar, No .2, Rukmininagar, Tq., & Dist. Amravati.
11. Jayant S / o Rambhau Autkar, Age. 55 Years, Occ.: Service, A/p. PHC. Kawtha Post. Kawtha, Tq. Resod, Dist. Washim.
12. Shrawan S/ o Somaji Waghade, Age . 48 Years, Occu.: Service, A/ p. P.H.C. Dhanki, Greem Park, Arni, Tq. Arni, Dist. Yavatmal.
13. Ramrao S/o Nomu Rathod, Age. 50 Years, Occu. : Service, A/ p. Lonibehal, Tq. Arni, Dist. Yavatmal.

14. Subhash S / o Kachru Shinde, Age. 49 Years, Occ.: Service, A/p. M.P.W. District Maleria Office, Buldhana Tq., & Dist. Buldhana.
15. Dilip S/o Shripad Hatgaonkar, Age. 51 Years, Occu.: Service, A/p. Assistant Director of Health Service (M) Akola, Tq. & dist. Akola.
16. Gajanan S/o Wasudeorao Bihade, Age. 56 Years, Occ.: Service, A/p. D.M.O. Office, Akola, Tq. Akola, Dist. Akola.
17. Nitin S/o Ajabrao Vyawahare, Age. 37 Years, Occ .: Service, A/p. D.M.O Office, Akola, Tq., & Dist. Akola.
18. Sandip S/o Ramdas Jadhav, Age. 39 Years, Occ.: Service, A/p. D.M.O. Washim, Tq., & Dist. Washim.
19. Dinesh S / o Shamrao Mahajan, Age . 61 Years, Occu.: Retired, A/p. Tilakwadi behind kulkarni Hospital, Near Kale sir house, Tq. & dist. Yavatmal.
20. Anil S / o Surylabhklakn Bhoke, Age. 45 Years, Occ.: Service, A/ p. D.M.O. Buldhana, Tq. , & Dist. Buldhana.
21. Kishor S / o Uttamrao Dhote Age. 38 Years, Occ.: Service, A/p. D.M.O. Buldhana, Tq. & Dist. Buldhana.
22. Anil S/o Jayaji Bilari, Age. 44 Years, Occ.: Service, A/p. D.M.O. Buldhana, Tq., & Dist. Buldhana.
23. Babarao S/o Bhutuji Rajurkar, Age. 48 Years, Occu.: Service, A/p. Umarsara, Tq. & Dist. Yavatmal.
24. Devidas S/o Udhavrao Jiddewar, Age. 55 Years, Occu.: Service, A/p. Patel Colony, Pandharkwada, Tq. Kelapur, Dist. Yavatmal.
25. Ashok S/o Atmaram Sonkar, Age. 44 Years, Occu.: Service, A/p. Sharda Chowk, Indira Nagar, Tq. & Dist. Yavatmal.
26. Damodhar S/o Sewakramji Pawar, Age. 59 Years, Occu.: Retired, A/p. Shivajinagar, Infront of Govt. Poly. College, Tq. & Dist. Amravti.
27. Smt. Kalpana D/o Deochand Jogi, Age. 50 Years, Occu.: Service, A/p. Assistant Director of Health Service (M) Akola, Tq. & dist. Akola.
28. Shivraj S / o Bhagawanshing Chauhan, Age. 49 Years, Occu.: Service, A/p. District Maleria Office, Buldhana, Tq. & dist. Buldhana.

29. Sidharth S/o Keshavrao Wankhede, Age. 50 Years, Occu.: Service, A/ p. District Malaria Office, Buldhana, Tq. & dist. Buldhana.

30. Deepak S/o Chhabu Jadhav, Age. 47 Years, Occu.: Service, A/p. District Malaria Office, Buldhana, Tq. & dist. Buldhana.

**Applicants.**

**VERSUS**

1. The State of Maharashtra, Through its Principal Secretary, Public Health Department, Mantralaya, Mumbai - 400 032.

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

3. The State of Maharashtra, Through its Secretary, General Administration Department, Mantralaya, Mumbai.400 032.

4. The Accountant General- II (A & E), Pension Wing Old Building In Front of Ravi Bhavan, Nagpur. Tq. & Dist. Nagpur.

5. The Joint Director Health Services (Malaria & Felariya), Pune, Division Pune-6.

6. The Assistant Director Health Services (Malaria & Felariya), Akola, Division, Akola.

**Respondents...**

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**S/Shri S.K. Mathpati, H.S. Dhande, A.P. Mane, Advs. for the applicants.**

**Shri S.A. Sainis, P.O. for respondents.**

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**Coram :- Shri Shree Bhagwan,  
Vice-Chairman and  
Shri Justice M.G. Giratkar,  
Member (J).**

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**Date of Reserving for Judgment : 18<sup>th</sup> January,2022.**

**Date of Pronouncement of Judgment : 25<sup>th</sup> January,2022.**

**JUDGMENT****Per : Member (J).****(Delivered on this 25<sup>th</sup> day of January, 2022)**

Heard Shri S.K. Mathpati, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondents.

2. The applicants are working with the respondent no.6. They were given advance increments in the year 2006, 2007. After the 6<sup>th</sup> Pay Commission their pay has to be revised by taking into consideration of the advance increment granted to them. The Government has issued G.R. dated 24/8/2017 directing the concerned head of the department / office not to give benefit of advance increment and if given, that should be recovered from the concerned employees. Hence, all the applicants filed the present O.A. with a prayer to quash and set aside the G.R. dated 24/8/2017 and direct the respondents to pay their salary by taking into account of advance increment granted to them.

3. The respondents filed their reply. The respondent no.4 i.e. the Accountant General- II (A&E), Nagpur has stated in the reply that their duty is only to verify the pension papers and process the pension order. It is submitted that in view of the 6<sup>th</sup> Pay Commission the G.R. 24/8/2017 was issued by the Administrative Department of Govt. of Maharashtra by which the benefits of additional increment were withdrawn / recalled and over payment of pay and allowances arising out of the advance increment were proposed to be recovered from the salary of the applicants who are working

under the respondent no.6. It is submitted that as per the 6<sup>th</sup> Pay Commission, Hakim Committee was formed and as per the report of Hakim Committee, 6<sup>th</sup> Pay Commission was implemented and therefore as per the 6<sup>th</sup> Pay Commission, the employees are not entitled for additional increment while fixing their revised pay.

4. The respondent no.6 filed reply and submitted that all the applicants are working with the respondent no.6. As per the G.Rs. dated 5/11/1992, 4/8/1994 and 18/4/1996 one or two additional increment were granted to the employees who were having outstanding work. The said increment is to be granted verifying the excellent / outstanding work, excellent C.Rs. of 3 to 5 years of the employees. It is submitted that the Committee after verifying the entire aforesaid things had extended one or two additional increment from 1/10/2006, 1/10/2007 and 1/10/2008. The Government i.e. the respondent no.3 issued the G.R. dated 27/2/2009 and accepted the recommendation report of the Hakim Committee with certain modification in respect of revised pay structure and revised pension formula as per 6<sup>th</sup> Pay Commission.

5. The Govt. had issued the Circular dated 3/7/2009 and declared that the granting of one or two additional increment would be closed because it takes time as well as the Govt. has decided to implement the revised pay scale from 1/1/2006 onwards, one or two additional increment has been granted to some of the employees prior to this and therefore pay fixation of the employees will be fixed without one or two additional

increment. It is submitted that the Govt. has issued G.R. dated 24/8/2017 and decided that the benefits of advance increment shall not be granted to the employees who have been paid revised pay as per the 6<sup>th</sup> Pay Commission and the said decision of the Govt. is just and proper.

6. It is submitted by the respondent no.6 that in view of the G.R. issued by the GAD dated 24/8/2017, the pay fixation of the applicants were done as per the guidelines given in the said G.R. by not taking into account the advance increments granted to the applicants, therefore, the O.A. is liable to be dismissed.

7. Heard the learned counsel for the applicants. He has pointed out the decision of Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No. 11531/2019 along with other connected Writ Petitions. He has pointed out the decision of Hon'ble Bombay High Court, Mumbai in Writ Petition (St.) No.1438/2021 and in Writ Petition No. 12531/2019 along with other connected Writ Petitions, decided on 4/5/2021.

8. The learned counsel for the applicants has submitted that the G.R. dated 24/8/2017 cannot be given retrospective effect, therefore, whatever advance increment granted to the applicants shall be given to them and their salary be fixed by taking into account the said advance increment.

9. Heard the learned P.O. He has strongly objected the O.A. He has submitted that in view of implementation of the 6<sup>th</sup> Pay Commission, the employees / applicants are not entitled to get the advance increment and

therefore the G.R. dated 24/8/2017 was issued directing the concerned authorities to fix pay of the employees as on 1/1/2006 without taking into account the advance increment granted to the employees.

10. The issue is now well settled by the decision of Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No. 11531/2019 along with other connected Writ Petitions. The issue in respect of G.R. dated 24/8/2017 is answered as under -

*"1. It is submitted that petitioners in these writ petitions are awarded certificate of excellent work and advance increments in the year 2006 to 2009. They were given benefit of advance increments and same was also paid. However, now for some of the petitioners' recovery is claimed and for some of the petitioners benefit is not extended. If the petitioners are already granted certificate/order of excellent work in the year 2006 to 2009, then same cannot be withdrawn retrospectively on the basis of subsequent Government Resolution.*

*2. The same view was taken by us in Writ Petition no.1954 of 2018 with other connected Writ Petitions under order dated 25.01.2019.*

*3. The Government Resolution dated 24.08.2017 will have prospective effect and not retrospective and in that case benefit that was accorded to petitioners of excellent work in the year 2006 to 2009, shall not be withdrawn and if any recovery is made pursuant to the same, same shall be refunded to the petitioners.*

*4. In the light of the above, Writ Petitions are disposed of. No costs".*

11. In the Writ Petition (St.) No.1438/2021, decided on 4/5/2021, the Hon'ble Bombay High Court has held as under –

*" (6) (a). The Respondents are directed to accord the benefit of advance increments granted to the Petitioners as per the policy of the Respondent - State dated 11th February 1974 and 20th June 1989 in the revise Sixth Pay Scale without giving any effect of subsequent Circular dated 3rd July 2009 and G.R. dated 24th August 2017".*

12. In the Writ Petition No. 12531/2019 with other connected Writ Petitions, decided on 4/5/2021, the Hon'ble Bombay High Court has held as under –

*“ (15) (a). The Respondents are directed to accord the benefit of advance increments granted to the Petitioners as per the policy of the Respondent - State dated 11th February 1974 and 31<sup>st</sup> October, 1989 in the revised Sixth Pay Scale without giving any effect of subsequent Circular dated 3rd July 2009 and G.R. dated 24th August 2017”.*

13. The issue is already decided by the Hon'ble Bombay High Court and therefore the effect of G.R. dated 24/8/2017 cannot be given retrospective effect.

14. In view of the above cited Judgments, the following order is passed –

**ORDER**

(i) The O.A. is partly allowed.

(ii) The Respondents are directed to accord the benefit of advance increments granted to the applicants in the revised Sixth Pay Scale without giving any effect of subsequent Circular dated 3rd July 2009 and G.R. dated 24th August 2017.

(iii) The recovery if any made in pursuance to the Circular dated 3rd July 2009 and G.R. dated 24th August 2017 from the applicants, shall be refunded to them.

(iv) No order as to costs.

**(Justice M.G. Giratkar)**  
**Member(J).**

**(Shree Bhagwan)**  
**Vice-Chairman.**

**Dated** :- 25/01/2022.

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I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 25/01/2022.

Uploaded on : 25/01/2022\*