

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 79/ 2021 (S.B.)**

Rajkumar Bhaudas Shahare,  
Occ. Retired,  
R/o 29, Trisaran Nagar,  
Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of Animal Husbandry,  
Dairy Department and Fisheries,  
Mantralaya,  
Mumbai- 32.
- 2) Commissioner of Animal Husbandry,  
Maharashtra State,  
Opp. Spicer Memorial College,  
Aundh, Pune- 411 007.
- 3) Regional Jt. Commissioner of Animal Husbandry,  
Near High Court, Nagpur Division,  
Nagpur.

**Respondents**

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**Shri N.R.Saboo, Id. Advocate for the applicant.**

**Shri A.P.Potnis, Id. P.O. for the Respondents.**

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**Coram :- Hon'ble Shri M.A.Lovekar, Member (J).**

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**JUDGMENT**

**Judgment is reserved on 20<sup>th</sup> Jan., 2023.**

**Judgment is pronounced on 24<sup>th</sup> Jan., 2023.**

Heard Shri N.R.Saboo, ld. counsel for the applicant and Shri A.P.Potnis, ld. P.O. for the Respondents.

2. Case of the applicant is as follows. He stood retired on superannuation on 30.06.2019. Last increment was granted to him on 01.07.2018. In view of Judgment of Hon'ble Bombay High Court dated 12.10.2022 in W.P. No. 1072/2022 (Shri Ramesh Eknath Suryawanshi and Ors. Vs. State of Maharashtra through its Chief Secretary and Ors.) one notional increment due on 01.07.2019 ought to have been released. The applicant submitted representations dated 27.06.2020 and 25.09.2020 but to no avail. Hence, this original application.

3. The applicant has relied on the Judgment of Aurangabad Bench of this Tribunal delivered on 23.11.2022 in a batch of original applications. This Judgement fully supports contention of the applicant.

4. It is a matter of record that Judgment in Ramesh Suryawanshi (Supra) is challenged before Hon'ble Supreme Court by filing S.L.P. (Civil) No. 4722/2021 and in this S.L.P. stay has been granted. Considering these aspects the Aurangabad Bench has allowed the O.As. subject to outcome of the S.L.P. and furnishing an undertaking of recovery if it is ruled that such increment was not payable. Operative part of the Judgment of Aurangabad Bench of this Tribunal reads as under :-

- “i) All these original applications stand allowed.*
- ii) Subject to the outcome of SLP (Civil) No. 4722/2021 pending before the Hon’ble Supreme Court, the applicants are held entitled for increment due on 01<sup>st</sup> July of the concerned year of their retirement. It shall be reckoned for the purpose of pension and gratuity and other retiral benefits subject to rider that the applicants would be entitled to arrears of monetary benefits for the period of three years only preceding the date of filing original applications.*
- iii) By obtaining the necessary undertaking from the applicants for refund of the amount, which may be paid to them in view of the present order in case the Hon’ble Supreme Court in the aforesaid matters rules that no such increment was payable, the respondents are directed to make payment of arrears accordingly within three months from today and also to ensure that revised pension is paid accordingly.*
- iv) No order as to costs.”*

Identical order will have to be passed in this original application. Hence, the order:-

**ORDER**

The original application is allowed in the following terms:-

The applicant is held entitled to one notional increment falling due on 01.07.2019, and all consequential reliefs flowing therefrom subject to the outcome of S.L.P. and his furnishing an undertaking that if the Hon'ble Supreme Court rules that such increment is not payable, he shall refund the amount paid in view of this determination. **The respondents are directed to make payment of arrears accordingly within three months from today and further ensure payment of revised pension.** No order as to costs.

**(Shri M.A.Lovekar)**  
**Member (J)**

**Dated :- 24/01/2023.**  
**aps**

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

Name of Steno : Akhilesh Parasnath Srivastava.

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

Judgment signed on : 24/01/2023.  
and pronounced on

Uploaded on : 25/01/2023.