

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

**ORIGINAL APPLICATION NO.696 OF 2018
WITH
ORIGINAL APPLICATION NO.697 OF 2018
(SUBJECT : CHALLENGING THE G.R.)**

DISTRICT : NASHIK

ORIGINAL APPLICATION NO.696 OF 2018

- 1) Shri Rajmahendra Murlidhar Sonawane,)
Age 57 years, Occupation : Govt. Service,)
Working as Senior Clerk in Irrigation Department,)
Address : 3, J.P. Avenue, Rathchakara Chowk,)
Near Chanda Hardware, Indiranagar,)
Nashik 422 009.)
- 2) Shri Balkrishna Govind Kalan,)
Age : 48 years, Occupation : Govt. Service,)
Junior Clerk, In Irrigation Department,)
Address : Flat No.2, Building No.2, Vardkrupa Co. Op.)
Housing Society, Yashoda Nagar, Peth Road,)
Nashik 422 004.)
- 3) Shri Mohan Narayan Pagare,)
Age : 53 years, Occupation : Govt. service,)
Working as Senior Clerk, In Irrigation Department,)
Address : Flat No.2, Shrushti Residency, Peth Road,)
Panchavati, Nashik 422 004.)
- 4) Shri Bhaskar Pandharinath Patil,)
Shri Mohan Narayan Pagare,)
Age : 55, Occupation : Govt. Service,)
Working as Senior Clerk, In Irrigation Department,)
Address : Flat No.6, Shri Shakti Apartment, Kalanagar,)
Meri, Nashik 422 004.)

- 5) Shri Hemkant Pandurang Potdar,)
Age : 62 years, Occupation : Retired First Clerk,)
Address : Plot No.35, A Rishikesh Bunglow,)
Usha Kiran Society, Near City Centre Mall,)
Sambhaji Chowk, Nashik 422 002.)
- 6) Shri Vilas Dattatraya Pardeshi,)
Age :56, Occupation : Govt. Service,)
Working as Superintendent, In Irrigation Department,)
Address : Plot No.2/9, Kathe Lane No.3,)
Near Savatamali Udyan, Kathe Galli, Dwarka,)
Nashik 422 011.)
- 7) Shri Madhukar Shivaji Dhiware,)
Age : 62 years, Occupation : Retired Store Keeper,)
Address : Plot No.6, Tulsai Bunglow,)
Near Pethe High School, Cidco, Nashik 422 009.)
- 8) Sau. Kalpana Balkrishna Sapkale,)
Age : 52 years, Occupation : Govt. Service,)
Working as Junior Clerk, In Irrigation Department,)
Address : Plot No.22, Samarth Nagar, Tapowan Link Road,)
Dwarka, Kathe Galli, Nashik 422 011.)
- 9) Shri Sunil Fakirrao Bachhav,)
Age : 53 years, Occupation : Govt. Service,)
Working as Senior Clerk, In Irrigation Department,)
Address : A-97, DGP Nagar No.1, Pune Road,)
Nashik 422 006.)
- 10) Shri Tarachand Sitaram Jadhav,)
Age : 65 years, Occupation : Retired First Clerk,)
Address : 5, Vinayak Park, Kathe Nagar, Kathe Galli,)
Nashik-Poona Road, Dwarka, Nashik 422 011.)

- 11) Sau. Lata Laxman Wagh,)
Age : 61 years, Occupation : Retired First Clerk,)
Address : Plot No.30, Harishit Bunglow,)
Near Ketki Society, Sambhaji Nagar, Mhasrul, Panchavati,)
Nashik 422 004.)
- 12) Shri Motiram Chindha Rajbhoj,)
Age : 67 years, Occupation : Retired First Clerk,)
Address : 2/1, Trusha Housing Society, Dindori Road,)
Nashik 422 004.)
- 13) Shri Uday Balwant Joshi,)
Age : 58 years, Occupation : Govt. Service,)
Working as Senior Clerk, In Irrigation Department,)
Address : Vandan Villa Housing Society,)
Opp. Shri Hari Mandir, Adarsh Nagar, Ramwadi,)
Panchvati, Nashik 422 003.)
- 14) Shri Dilipkumar Uttamrao Joshi,)
Age : 58 years Occupation : Govt. Service,)
Working as Superintendent, In Irrigation Department,)
Address : Flat No.4, Shivganga Apartment,)
Near Kala Nagar, Dindori Road, Nashik 422 004.)
- 15) Shri Balkrishna Gangadhar Nikhade,)
Age : 56 years, Occupation : Govt. Service,)
Working as Senior Clerk, In Irrigation Department,)
Address : Sreejay Row House, Kalanagar, Dindori Road,)
Mhasrul, Nashik 422 004.)
- 16) Shri Anil Rajaram Sawale,)
Age : 61 years, Occupation : Retired Senior Clerk,)
Address : Swapanapurti Bunglow,)
Shri Chintamani Colony, Behind Rathchakara Society,)
Indiranagar, Nashik 422 009.)

- 17) Shri Avinash Vitthal Jadhav,)
Age : 41 years, Occupation : Govt. Service,)
Working as Civil Engineering Assit. In Irrigation Department,)
Address : 6, Kansara Row House, Prabhat Nagar,)
Mhasrul, Nashik 422 004.)
- 18) Shri Dhanajay Bhaskar Gowardhane,)
Age : 65 years, Occupation : Retired Senior Clerk,)
Address : B-8/6, Shri Rajsarathi Co. Op. Housing Society,)
Indiranagar, Nashik 422 009.)
- 19) Shri Balkrishna Kashiram Ghadwaji,)
Age : 59 years, Occupation : Retired Senior Clerk,)
Address : Flat No.8, Sonal Housing Society, Shrirang Nagar,)
Ganapur Road, Nashik 422 002.)
- 20) Shri Bhagvan Pandurang Thike,)
Age : 47 years, Occupation : Govt. Service,)
Working as Junior Clerk, In Irrigation Department,)
Address : Plot no.41, West, Vasanti Society,)
Omkar Nagar, Peth Road, Nashik 422 003.)
- 21) Shri Dilip Somanth Chavan,)
Age : 54 years, Occupation : Govt. Service,)
Working as Senior Clerk, In Irrigation Department,)
Address : N-8, A/6, 22(3) Ganesh Chowk, New Cidco (II),)
Nashik 422 009.)
- 22) Shri Shivaji Vishnu Medhane,)
Age : 54 years, Occupation : Govt. Service,)
Working as Senior Clerk, In Irrigation Department,)
Address : Building No.5, Flat No.10, Shri Vishwa Chandra)
Housing Society, Gulmohar Nagar, Mhasrul,)
Nashik 422 004.)

- 23) Shri Dagadudas Madhav Biraji,)
 Age : 65 years, Occupation : Retired Office Superintendent,)
 Address : Flat No.1, Sai Pream Society, Near Pokar Colony,)
 Dindori Road, Nashik 422 004.)
- 24) Shri Abhay Radakrishna Dixit,)
 Age : 55 years, Occupation : Govt. Service,)
 Working as Junior Clerk, In Irrigation Department,)
 Address : S No.77, Plot No.50, Shahu Nagar,)
 Malegaon Camp, Dist. Nashik, Malegaon 423 105.)
- 25) Shri Laxman Gangadhar Gavit,)
 Age : 49 years, Occupation : Govt. Service,)
 Working as Civil Engineering Assistant,)
 In Irrigation Department,)
 Address : Plot No.22/2, Prabhat Nagar, Near Water Tank,)
 Mhasrul, Nashik 422 004.)

..... APPLICANTS

VERSUS

- 1) The State of Maharashtra,)
 Through Secretary, Water Resources Department,)
 Mantralaya, Mumbai 400 032)
- 2) The Secretary,)
 General Administration Department,)
 Mantralaya, Mumbai 400 032)
- 3) The Secretary,)
 Finance Department,)
 Mantralaya, Mumbai 400 032)
- 4) Superintending Engineer,)
 GATES Circle, Central Design Organisation,)
 Dindori Road, Nashik 422 004.)
 (Successor Circle Office of Old Ghatghar)
 Hydroelectric Project, Circle))

- 5) Superintending Engineer & Joint Director,)
 Maharashtra Engg. Research Institute,)
 (MERI), Dindori Road, Nashik 422 004.)

.....RESPONDENTS

WITH

ORIGINAL APPLICATION NO.697 OF 2018

- 1) Shri Badgujar Prashant Kadu,)
 Age : 45 Years, Occupation :Govt. Service,)
 Working as Group Instructor, ITI, Nashik)
 Flat No.11, Gannayk Apptt., Chowk No.3,)
 Govind Nagar, Nashik.)
- 2) Shri Bahirshet Mahavir Ramchandra,)
 Age : 54 years, Occupation : Govt. Service,)
 Working as Training Officer, AVTS, Kolhapur,)
 R/o. House No./CTS No.865,)
 At Post Murgud, Tal. Kagal,)
 Dist. Kolhapur 416 219.)
- 3) Shri Sarade Umesh Samb,)
 Age : 53 years, Occupation : Govt. Service,)
 Working as Head Clerk, ITI, Chandwad, Dist. Nashik.)
 R/o. B-6, Siddhayog Sankul, Wadala Pathardi Road,)
 Near Church, Indira Nagar, Nashik 422 009)
- 4) Shri Nile Bharat Tukaram,)
 Age : 49 years, Occupation : Govt. Service,)
 Working as Senior Clerk, ITI, Nashik,)
 R/o. Flat No.12, Hari Om Apptt., Upnagar,)
 Nashik 422 006)
- 5) Shri Sonawane Madhukar Uttam,)
 Age : 56 years, Occupation : Govt. Service,)
 Working as Senior Clerk, ITI, Dindori, Dist. Nashik.)
 R/o. Shri Vishwakarma Sadan, Plot No.23,)
 Behind Samaj Mandir, Shivaji Nagar,)
 Jail Road, Nashik road 422 101)

- 6) Shri Sabale Ravindra Chhabu,)
Age 51 years, Occupation : Govt. Service,)
Working as Junior Clerk, Asst. Director,)
Regional Office, Nashik.)
R/o. : 24, Ganraj, Trimurti Nagar, Jail Road,)
Near Rajraeshwari Karalya, Dasak, Jail Road,)
Nashik Road 422 101)
- 7) Shri Borse Manoj Baburao,)
Age : 54 years, Occupation : Govt. Service,)
Working as Senior Clerk,. ITI, Navapur, Dist. Nandurbar,)
R/o. : Flat No.2, Caliabre Housing Soc.)
Behind Suvidha Gas Agency, Rane Nagar, Chetna Nagar,)
Nashik 422 009)
- 8) Shri Shivrame Shashikant Rambhau,)
Age : 56 years, Occupation :Govt. Service,)
Working as Class IV, ITI, Nashik,)
R/o.Sadguru Prasad, Godai Soc., Jadhav Sankul,)
Plot No.104/6, Ashok Nagar, Satpur, Nashik.)
- 9) Shri Sonawane Mahendra Damodar,)
Age : 52 years, Occupation :Govt. Service,)
Working as Senior Clerk, ITI, Dhule,)
R/o. Flat No.4, Building No.7, Om Divya Co. Op. Hsg. So.)
Shanti Park, Upnagar, Nashik 422 006)
- 10) Shri Yeole Vishwasrao Mahadev,)
Age : 51 years, Occupation : Govt. Service,)
Working as Full Time Teacher, Govt. Technical Highschool,)
Jalgaon, R/o. Plot No.28, Shanti Niketan Soc.)
Agintha Chowk, Jalgaon : 425 003)
- 11) Shri Kolte Pravin Tukaram,)
Age : 53 years, Occupation : Govt. Service,)
Working as Craft Instructor, ITI, Bhusawal,)
Dist. Jalgaon, R/.o. Gat No.60, Plot NO.2, Shiv Colony,)
Jalgaon :425 002)

- 12) Shri Rajput Komalsing Gokulsing,)
 Age : 46 years, Occupation : Govt. Service,)
 Working as Craft Teacher, ITI, Nashik,)
 R/o. Flat No.6, Nursingh Park Apptt.)
 Wasan Nagar, Pathardi Phata, Nashik 422 010)
- 13) Shri Patil Laxman Rambhau,)
 Age : 43 years, Occupation : Govt. Service,)
 Working as Craft Instructor, ITI, Jalgaon,)
 R/o. Plot No.21, Sumukh Banglow, Vimal Patil Nagar,)
 Near Shantinath Nagar, Bhusawal, Dist. Jalgaon 425 201)
- 14) Shri Sasane Jayram Sumant,)
 Age : 46 years, Occupation : Govt. Service,)
 Working as Maths Instructor, ITI Nashik,)
 R/o. Flat No.8, Sai Residency, Juiee Nagar,)
 Mhasrul, Panchvati, Nashik)
- 15) Shri Kulkarni Nitin Prabhakar,)
 Age : 53 years, Occupation : Govt. Service,)
 Working as Head Clerk, ITI, Kalwan, Dist. Nashik)
 R/o. 11, Krushna High Apptt. Shri Shri Ravishankar Marg,)
 Behind Cinemax, Nashik 6)
- 16) Shri Patil Sunil Dagadu,)
 Age : 47 years, Occupation : Govt. Service,)
 Working as Assistant Storekeeper, ITI, Erandol,)
 Dist. Jalgaon, R/o. At Post AINCUR, Raghunath Nagar,)
 Tal. Raver, Dist. Jalgaon 425 509)
- 17) Shri Gite Datta Shivaji,)
 Age : 47 years, Occupation : Govt. Service,)
 Working as Junior Clerk, Assit. Director,)
 Regional Office, Nashik.)
 R/o. Shiv Leela, 06, Hastakala Housing Society,)
 Gokul Nagar, Shivaji Nagar, Jail Road,)
 Nashik Road 422 101.)
- 18) Shri Chavan Shankar Gangaram,)
 Age : 46 years, Occupation : Govt. Service,)
 Working as Class IV, ITI, Kalwan, At/ P. Tal. Kalwan,)
 Dist. Nashik, R/o. Nikita Housing Soc. Row House No.2)
 Nanduri Road, Abhona, Tal. Kalwan, Dist. Nashik.)

- 19) Shri Sarode Ashok Shankar,)
 Age : 48 years, Occupation : Govt. Service)
 Working as Class IV, ITI, Kalwan,)
 At P. Tal. Kalwan, Dist. Nashik,)
 R/o. Flat No.A/8, Vira Pride Apptt. Dhru Nagar,)
 Gangapur, Nashik 422 012.)
- 20) Shri Pande Jagadishprasad Indraprasad,)
 Age : 52 years, Occupation : Govt. Service,)
 Working as Class IV, BTRI, Jalgaon,)
 R/o. Anurag, State Bank Colony,)
 Plot No.563/4/B/17, Jalgaon 425 001)
- 21) Shri Vanve Atmaram Bhivsan,)
 Age : 52 years, Occupation : Govt. Service,)
 Working as Class IV, ITI, Bahdgaon, Dist. Jalgaon,)
 R/o. At Post Adgaon, Tal. Erondol, Dist. Jalgaon.)

.....APPLICANTS

VERSUS

- 1) The State of Maharashtra,)
 Through Secretary, Skills Development, Employment and)
 Entrepreneurship Department,)
 Mantralaya, Mumbai 400 032)
- 2) The Secretary,)
 General Administration Department,)
 Mantralaya, Mumbai 400 032)
- 3) The Secretary,)
 Finance Department,)
 Mantralaya, Mumbai 400 032)
- 4) Director,)
 Vocational Education & Training, Mumbai)
 3, Mahapalika Marg, P.B.No.10036, Mumbai 400 001)

.....RESPONDENTS.

Shri C.T. Chandratre, learned Advocate for the Applicants.

Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : SHRI P.N. DIXIT, VICE-CHAIRMAN
SHRI A.P. KURHEKAR, MEMBER(J)

DATE : 20.11.2019

PER : SHRI A.P. KURHEKAR, MEMBER(J)

J U D G M E N T

1. Heard Shri C.T. Chandratre, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.
2. Both these Original Applications are arising from common issue and therefore being decided by the common judgment.
3. In these Original Applications, Applicants have challenged legality of G.R. dated 24.08.2017 and also prayed for direction to the Respondents to extend benefit of grant of advance increments to them and to release monetary benefits by revising pay scale.
4. The applicants are working on Group-C posts. Earlier there was scheme for grant of two advance increments to the Government servants whose performances are excellent. However, the said scheme for grant of advance increments stands abolished in view of the implementation of 6th Pay Commission by issuance of Government Resolution (G.R.) dated 24.08.2017 (page 105). As per this G.R. following decision was taken :-

“३. आगाऊ वेतनवाढ ही भविष्यात काम करण्यासाठी प्रोत्साहनादाखल देण्यात येते. ६ व्या वेतन आयोगाचा १० वर्षांचा कालावधी (दिनांक १.१.२००६ ते १.१२.२०१५) हा संपलेला आहे. त्यामुळे ६ व्या वेतन आयोगासाठी प्रस्तावित आगाऊ वेतनवाढ धोरण पूर्वलक्षी प्रभावाने लागू करून आगाऊ वेतनवाढीचा लाभ देणे व्यवहार्य नाही. आता त्या कालावधीकरीता आगाऊ वेतनवाढ धोरणाचा हेतू कालबाह्य झाला आहे. ही बाब विचारात घेऊन शासन पुढील निर्णय घेत आहे :-
शासन निर्णय :-

राज्य वेतन सुधारणा समिती, २००८ यांनी शासनास सादर केलेल्या अहवालातील परिच्छेद ३. २४ मध्ये केलेल्या शिफारशीच्या अनुषंगाने तसेच संदर्भीय क्र.२ येथील शासन परिपत्रक दिनांक ३.७.२००९ मधील तरतूदीच्या अनुषंगाने खालील प्रमाणे निर्णय घेण्यात येत आहे :-

“सहाय्या वेतन आयोगानुसार सुधारीत वेतनश्रेणी अनुज्ञेय झाल्याच्या कालावधीत (दिनांक १.१०.२००६ ते १.१०.२०१५) आगाऊ वेतनवाढीचा लाभ देण्यात येऊ नये.”

5. As such by the said G.R. it was decided by the Government that the benefits of advance increments should not be given to the employees for the period from 01.10.2006 to 01.10.2015.

6. This decision was taken obviously in view of advancement of pay structure which was implemented from 01.01.2006. It is quite clear from G.R. that in view of 6th Pay Commission revised pay structure was implemented and therefore the benefit of this scheme for grant of advance increment for excellent work was withdrawn.

7. In the present matter, Applicants contend that the Department had passed orders in 2007, 2008 and 2009 for grant of advance increment to them but actual monetary benefit was not granted as the same was on hold. The Applicants have, therefore, filed these Original Applications.

8. Learned Advocate Shri C.T. Chandratre for the Applicant solely placed reliance on the decision of Hon'ble High Court in various Writ Petitions. According to him the applicants being similarly situated are entitled to the benefit to the decision of Hon'ble High Court. He fairly conceded that though the orders of grant of advance increment have been passed no such monetary benefits have actually been extended to the Applicants. He therefore prayed to set aside the G.R. dated 24.08.2017 and for direction to the Respondents to release monetary benefits of advance increments.

9. Par contra, learned C.P.O. Ms. S.P. Manchekar for the Respondents pointed out that the decision relied by the learned Advocate Shri C.T. Chandratre for the Applicant are of no assistance to the Applicants in the present case, as those matters were pertaining to recovery of the amount which was already paid to the employees towards advance increments, and in view of the decision of Hon'ble High Court recovery was held not permissible.

10. Now the question is whether the applicants are entitled to the monetary benefits of advance increment in the teeth of G.R. dated 24.08.2017.

11. In so far as the decision relied by learned Advocate is concerned all that Hon'ble High Court judgment held that the G.R. dated 24.08.2017 will have prospective effect and not retrospective effect and therefore the benefit which was already accorded in 2006, 2007, 2008 and 2009 should not have been withdrawn. It is in that context Hon'ble High Court was pleased to hold that if any recovery is made pursuant to G.R. dated 24.08.2017 then it shall be refunded to the Applicants therein.

12. It would be apposite to reproduce the operative order of Judgment of Hon'ble High Court in **Writ Petition No.7715 of 2019, Devidas Kalidas Nemade and another Versus The State of Maharashtra & Other, decided on 26.06.2019 with connected Writ Petitions.**

“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, 2007, 2008, 2009 shall not be withdrawn and if any recovery is made pursuant to the same, same shall be refunded to the petitioners.”

He also placed reliance on the decision of Hon'ble **High Court in Writ Petition No.12699 of 2018, Ravindra Vana Patil Versus The State of Maharashtra 7 Ors., decided on 03.04.2019** with connected Writ Petitions, wherein following order was passed :-

“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, 2007 and 2008, shall not be withdrawn and if any recovery is made pursuant to the same, same shall be refunded to the petitioners.”

He also placed reliance on record decision of Hon'ble High Court in **Writ Petition No.9930 of 2019, Sopan Dhondji Pawar and Others Versus The State of**

Maharashtra & Ors, decided 08.08.2009 with connected Writ Petitions, wherein the operative order is as follows :

“2 (III) The Government Resolution dated 24/8/2017 will have prospective effect and not retrospective and in that benefit that was accorded to petitioners of excellent work in the year 2006, 2007 and 2008, shall be withdrawn and if any recovery is made pursuant to the same, same shall be refunded to the petitioners.”

3 In the light of the above, Writ Petitions are disposed of. No costs.”

13. It is thus explicit from the decision of Hon’ble High Court in various Writ Petitions that G.R. dated 24.08.2017 was held prospective and not retrospective and it is in that context where the benefit of advance increment was already given and recovered, the same was ordered to be refunded

14. Whereas in the present Original Applications orders only were passed but no such effect was given to it and the matter was kept on hold in view of proposed implementation of 6th Pay Commission. In other words, this is not the case where monetary benefits were actually given but withdrawn or recovered later on so as to apply ratio of the decision of the Hon’ble High Court in above Writ Petitions. Applicants claim in the present Original Applications is the actual monetary benefits of old scheme which is already abolished in pursuance to G.R. dated 24.08.2017.

15. Needless to mention that the decision of Hon’ble High Court is authority for what it actually decides and not what logically follows from it. As such, on the basis of orders of Hon’ble High Court referred to above, it cannot be said that where the monetary benefits itself are not granted those were to be released.

16. It would not be out of place to mention that the decision to abolish grant of advance increments was taken in view of Hakkim Committee recommendation which was accepted by the Government by G.R. dated 27.02.2009.

17. It is in pursuance of the said G.R. the Government has issued G.R. dated 24.08.2017, wherein, it is stated that the employees to whom benefit of 6th pay commission have been granted in between 01.10.2006 to 01.10.2015, they should not be given the benefits of advance increment. This decision was taken in view of revised pay structure made applicable from 01.10.2006. As such, the applicants have already received the benefits of 6th pay commission therefore it cannot be said that they are again entitled to the benefit of old scheme of grant of advance increments, which is already done away in terms of G.R. dated 24.08.2017. Otherwise, it would be amounting to grant of double benefit. This being the position we see no illegality in G.R. dated 24.08.2017.

18. For the aforesaid discussion, we have no hesitation to sum up that both these Original Applications are devoid of merit and deserve to be dismissed. In view of the above, both the Original Applications are dismissed. No order as to costs.

SD/-
(A.P. KURHEKAR)
MEMBER(J)

SD/-
(P.N. DIXIT)
VICE-CHAIRMAN

prk