

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 993 of 2021 (SB)**

Shri Ratan S/o Dattatraya Dake,  
Aged about 59 years, Occu. Retired,  
R/o Dongaon Road, Shikshak Colony,  
Mehkar, District Buldana, Mehkar.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai-400 032.
- 2) The District Collector Buldana,  
Collector Office Buldana, near State Bank Square,  
Buldana 443 001.
- 3) The Tahsildar Lonar,  
Tahsil Office Lonar, District Buldana,  
Lonar-443 302.
- 4) Account Officer, Pay Verification Unit,  
Account & Treasury Bhavan, Amravati,  
University Road, District Amravati.
- 5) Accounts & General A&E (II) Office,  
Maharashtra, Civil Lines,  
Nagpur-440 001.

**Respondents.**

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**Shri A.P. Sadavarte, Advocate for the applicant.**

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

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**WITH**

**ORIGINAL APPLICATION No. 1052 of 2021 (SB)**

Shri Anil S/o Namdeo Davhale,  
Aged about 55 years, Occu. Service,  
R/o Shivaji Colony, near SBI, near Geetam Lodge,  
Lonar, Tahsil Mehkar, District Buldana.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai-400 032.
- 2) The District Collector Buldana,  
Collector Office Buldana, near State Bank Square,  
Buldana 443 001.
- 3) Sub Divisional Officer, Mehkar,  
Sub Divisional Office, Mehkar,  
Tahsil Mehkar, District Buldana.
- 4) Tahsildar Lonar,  
Tahsil Office Lonar,  
Near Durga Tekadi, Loni Road, Lonar,  
District Buldana, Lonar-443 302.

**Respondents.**

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**Shri A.P. Sadavarte, Advocate for the applicant.**

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

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**WITH**

**ORIGINAL APPLICATION No. 1053 of 2021 (SB)**

Shri Vijay S/o Narayanrao Phophala,  
Aged about 50 years, Occu. Service,  
R/o Khatkeshwar Nagar, Lonar,  
Tahsil Lonar, District Buldana.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai-400 032.
- 2) The District Collector Buldana,  
Collector Office Buldana, near State Bank Square,  
Buldana 443 001.
- 3) Sub Divisional Officer, Mehkar,  
Sub Divisional Office, Mehkar,  
Tahsil Mehkar, District Buldana.
- 4) Tahsildar Lonar,  
Tahsil Office Lonar,  
Near Durga Tekadi, Loni Road, Lonar,  
District Buldana, Lonar-443 302.

**Respondents.**

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**Shri A.P. Sadavarte, Advocate for the applicant.**

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

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

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**Date of Reserving for Judgment : 24<sup>th</sup> March,2022.**

**Date of Pronouncement of Judgment : 7<sup>th</sup> April,2022.**

**COMMON JUDGMENT****(Delivered on this 7<sup>th</sup> day of April, 2022)**

Heard Shri A.P. Sadavarte, learned counsel for the applicants and Shri S.A. Sainis, learned P.O. for the respondents.

2. The grievances of all the applicants are common. They have sought same relief. Hence, all three O.As. are decided by this common Judgment.

3. The applicant Shri Ratan D. Dake in O.A. 993 of 2021, was appointed as a Talathi vide order dated 1/2/1999. He was promoted as a Circle Officer vide order dated 31/12/2008. The applicant was promoted as a Naib Tahsildar vide order dated 7/3/2014. He came to be retired on 31/10/2020. During his service, looking to the outstanding / excellent work done by him, the Sub Divisional Officer (SDO), Mehkar granted two advance increments as per order dated 7/3/2007.

4. The applicant Shri Anil N. Davhale in O.A. 1052 of 2021 was appointed as a Talathi vide order dated 7/2/1991. In the year 2011, he was promoted as a Circle Officer. Looking to his outstanding / excellent work, the Sub Divisional Officer (SDO), Mehkar granted two advance increments as per order dated 7/3/2007.

5. The applicant Vijay N. Phophala in O.A. 1053 of 2021 was appointed as a Talathi vide order dated 1/10/1993. He is presently

working on the post of Talathi in the Office of Tahsildar, Lonar since 30/5/2018. Considering the various Govt. G.Rs. dated 4/12/1979, 29/10/1990 and 14/12/2006, the respondents the Sub Divisional Officer (SDO), Mehkar considered his outstanding / excellent work and granted him two advance increments as per the order dated 7/3/2007.

6. Two advance increments granted as per the order dated 7/3/2007 to all three applicants were made applicable w.e.f. 1/10/2006. The entries to that effect are taken in the service book of the applicants. The respondent no.3 (in O.A.993/2021) / respondent no.4 in other O.As., has made pay fixation of the applicants and thereafter revised pay fixation was made. Instead of granting two advance increments, they have fixed the pay of the applicants. It is pertinent to note that the scheme of 6<sup>th</sup> Pay Commission was floated by the State Government in the year 2009 w.e.f. 2006, therefore, all the applicants / government servants are entitled to get the benefit of increment from 2006. The respondent no.3 vide order dated 16/7/2021 (in O.A.993/2021) and respondent no.4 in other O.As., vide its order dated 28/10/2021 has directed that in view of the Govt. G.R. dated 24/8/2017 issued by the GAD, the applicants are not entitled to receive advance increments w.e.f. 1/10/2006 and started the recovery

of excess payment. Hence, all the applicants approached to this Tribunal.

7. Heard Shri A.P. Sadavarte, learned counsel for applicants. He has pointed out the Judgment of this Tribunal in O.A. No.75/2020, decided on 25/01/2022. He has also pointed the Judgments of Hon'ble Bombay High Court in Writ Petition No.1062/2020 and in Writ Petition No.5367/2016.

8. The learned P.O. submitted that the Government has issued Circular dated 3/7/2009 and declared that granting one or two advance increments would be closed and decided to implement the revise pay scale from 1/1/2006 onwards. One or two advance increments granted to some of the employees prior to this and therefore pay fixation of the employees are fixed without one or two advance increments. The learned P.O. has submitted that the Government has issued G.R. dated 24/8/2017 and decided that benefit of advance increments shall not be granted to the employees who have been paid revised pay as per the 6<sup>th</sup> Pay Commission, therefore, the decision of the respondents / authority to recover the amount without granting two advance increments, is legal and proper.

9. This Tribunal relying on the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad has held in para nos.10 to 13 which are reproduced below –

“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*





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11. Subsequently, the respondents / authority have revised the pay as per the direction given by the GAD vide G.Rs. dated 3/7/2009 and 24/8/2017, started recovery from the applicants.

12. The Hon'ble Bombay High Court has held that the G.Rs. dated 3/7/2009 and 24/8/2017 cannot be given retrospective effect. In that view of the matter, the following order –

**ORDER**

- (i) The O.As. are allowed as prayed.
- (ii) The respondents / authority 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 3<sup>rd</sup> July 2009 and G.R. dated 24th August 2017.

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

(iv) No order as to costs.

**Dated** :- 07/04/2022

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

dnk.

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 Member (J).

Judgment signed on : 07/04/2022

Uploaded on : 08/04/2022