

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.268/2018

DISTRICT: - PARBHANI

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1. Prabhakar s/o. Kashinath Joshi,
Age : 65 years, Occu. : Pensioner,
R/o. Laxmikant Nagar (Indewadi),
Ambad Road, Jalna.
 2. Sadashiv s/o. Venkatrao Sisodiya,
Age : 65 years, Occu. : Pensioner,
R/o. Juna Mondha, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.
 3. Rama s/o. Baburao Wakde,
Age : 66 years, Occu. : Pensioner,
R/o. At Post-Pokharani (Narsinha),
Taluka & District- Parbhani.
 4. Vishwanath Balasaheb Bhalerao,
Age : 65 years, Occu. : Pensioner,
R/o. Adhokshud Enterprises,
Gala No. 50, Stadium Complex,
Beed, Tq. & Dist. – Beed.
 5. Prabhakar s/o. Dattatray Udavant,
Age : 66 years, Occu. : Pensioner,
R/o. Yadnya-Bhumi Campus,
Kamal-nagar, Kodri Road,
Gangakhed, Tal.-Gangakhed,
District – Parbhani.
 6. Sopan s/o. Sambhaji Jade,
Age : 66 years, Occu. : Pensioner,
R/o. Sargam Colony, Wangi
Road (Hudco), Parbhani,
Taluka & District – Parbhani.
 7. Ashok s/o. Vinayakrao Pechphule,
Age : 66 years, Occu. : Pensioner,
R/o. Rangar-Galli, Near Nagareshwar Temple,
Gangakhed, Tal.-Gangakhed,
District – Parbhani.

8. Laxman s/o. Gopanathrao Inje,
Age : 69 years, Occu. : Pensioner,
R/o. Flat No. 103, "G"-Bldg.,
Kasliwal Marble, Satara Campus,
Aurangabad.
9. Uttam s/o. Yashwantrao Phad,
Age : years, Occu. : Pensioner,
R/o. , Tal.-Gangakhed,
District – Parbhani.
10. Ramkishan Annasaheb Dhumal,
Deceased through L.R. Smt.
Subhadrabai wd/o Ramkrishan Dhumal,
Age : 62 years, Occu. : Pensioner,
R/o. Pokharni (Narsinha),
Taluka & District – Parbhani. ...APPLICANTS

V E R S U S

- 1) The State of Maharashtra,
Through its Principal Secretary,
Finance Department,
Mantralaya, Mumbai-32.
 - 2) The Accountant General-II (A & E),
Pension Wing, Old Building,
Post Box No. 114, GPO Civil Lines,
In-front of Ravi-Bhavan,
Nagpur-440 001.
 - 3) The Superintending Engineer-
Administrator ,
Command Area Development
Authority (CADA), Near Gajanan
Maharaj Mandir, Garkheda Parisar,
Aurangabad - 431 005.
 - 4) The Executive Engineer,
Jayakwadi Canal Division No. 2,
Jayakwadi Vasahat, Karegaon Road,
Parbhani ... RESPONDENTS
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APPEARANCE : Shri M.C. Ghode, Advocate for Applicants.
: Smt. Sanjivani K. Deshmukh-Ghate,
Presenting Officer for the respondents.

CORAM : Justice M.T. Joshi, Vice-Chairman

DATE : 30th November, 2018

ORAL ORDER
(Delivered on 30th November, 2018)

1. Heard Shri M.C. Ghode learned Advocate for the Applicants and Smt. Sanjivani K. Deshmukh-Ghate learned Presenting Officer for the respondents.
2. By the present application, applicants are claiming following reliefs:

*“(B) Necessary directions kindly be issued against the respondents for revising / reviewing the monthly pension of the applicants in the light of **Judgment & Order** passed by Hon’ble High Court bench Aurangabad dated **9th May-2015** in **Writ Petition No. 8985/2011** & other connecting writ petitions, by providing the benefits under the provisions of **Maharashtra Civil Services (Pension) Rules, 1982** as applicable to other retired employees of the*

establishments of State Government (i.e. 50% amount of last drawn basic pay plus applicable allowances), in the interest of justice.

(C) Necessary direction kindly be issued against the respondents for releasing the amount of arrears of post period, on the count of revision/ review of pension scheme of the applicants & by effecting the same from the date of retirement of the applicants, in the interest of justice.”

3. The contention of applicants is that they are superannuated from the respective posts as detailed in paragraph 4 of the O.A. in the year 2007, 2008 and 2009. They are granted pension on the basis of rules those were prevalent at that time. Thereafter, in view of the implementation of the recommendations of the 6th Pay Commission, State had issued Government Resolution dated 30th October, 2009 granting similar benefits to the State Government employees w.e.f. 01-01-2006. However, as the preset applicants came to be superannuated before the recommendations of the 6th Pay Commission were implemented, they were granted retirement benefits as per the earlier rules which prescribed inter alia that for grant of

full pension 33 years of service was required. The G.R. dated 30th October, 2009 provided that for granting pension in full scale only 20 years' eligible completed service is required. However, in the said Government Resolution dated 30th October, 2009 vide paragraph 5.4 it was prescribed that benefits of the said G.R. would be applicable only to the employees who would retire after 27th February, 2009. Since all the present applicants came to be superannuated before the said date, the concerned respondents applied earlier rules for sanctioning fraction of the pension. Aggrieved by the same, present O.A. is filed claiming reliefs quoted supra.

4. The case of the respondents is based on the same G.R. Upon hearing both sides, it is clear that the said cut off date was challenged by many Government employees in the Hon'ble High Court in Writ Petition No.8985/2011 (Annexure A-3, page 40) and in many other Writ Petitions. Hon'ble High Court by common judgment dated 9th May, 2014 quashed the said cut off date and vide paragraph 22 and 23 (Annexure A-3, Pages 73 & 74) observed and declared as under:

“22. The Supreme Court, in case of Association of College & University Superannuated Teachers vs Union of India and others in Civil Appeal No.908 of 2013 (Arising out of SLP (C) No.3700 of 2012) while considering similar fact situation, in case of refusal of enhanced amount of gratuity by prescribing cut-off date, allowed the civil appeal filed by the appellants therein, holding that the cut-off date 1st September, 2009 specified in Government Resolution dated 21st August, 2009, in the facts of that case, was discriminative and same was declared unconstitutional.

We hold the cut-off date 27th February, 2009 prescribed in Government Resolution dated 30th October, 2009 for payment of revised pension under the Maharashtra Civil Services (Pension) Rules, 1982, making it applicable to those employees who retired from 27th February, 2009 and not to those employees, who retired in between 1st January, 2006 to 26th February, 2009, as unconstitutional.

23. In the light of discussion herein above, as a sequel to the above, we direct that within three months from the date of receipt/production of copy of this order, the

State Government shall pay to the petitioners and other similarly situated employees, the difference of the pension and revised pension payable.

We make it clear that, we have considered the controversy only confined to the cut-off date applied in Government Resolution dated 30th October, 2009 to those retirements from 27.2.2009 vis-a-vis the employees who retired between 1st January, 2006 to 26th February, 2009 for payment of revised pension. We only declare the said cut-off date as unconstitutional. We have not tested the rest of the provisions of the said Government Resolution, since did not fall for our consideration, which shall remain unaffected.”

5. It would be thus clear from various judgments of the Hon'ble High Court and Hon'ble the Supreme Court that cut off date is found to be unreasonable and the said cut off date is quashed and set aside. In view of those judgments, present O.A. would have to be allowed.

6. Impugned decisions of the concerned respondents of granting partial pension and other pensionary benefits are hereby quashed and set aside. Concerned respondents are

directed to take fresh decision on the basis of the Government Resolution dated 30-10-2009 (page 18) ignoring provision of cut off date as prescribed by clause 5.4 of the said Government Resolution and shall impart benefits flowing from the same, if any, to the applicants. Decision in view of these directions shall be taken within period of 3 months from the date of this order. Accordingly, the O.A. is allowed without any order as to costs.

VICE CHAIRMAN

Place: Aurangabad
Date : 30-11-2018.

YUK SB 268.2018 DT. 30-11-2018 mtj vc