

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.958 OF 2022**

**DISTRICT: MUMBAI  
SUBJECT: PAY AND  
ALLOWANCES**

- 1) Shri Ambadas Durgadas Wankhade )  
Aged about 62 years, Retired Clerk )  
Assistant Rationing Officer, )  
and residing at, Shivparvati CHS Ltd. )  
Flat No.B-103, Sector No.9, Airoli )  
Navi Mumbai 400 708 )
  
- 2) Shri Sudhakar Baliram Wankhede )  
Aged : about 62 years, Retired Clerk )  
Rationing Inspector, and residing at )  
Kuldipak CHS Room No.02, Tisgaon )  
Naka, Near Siddhivinayak Hospital )  
Kalyan (East), Mumbai. )
  
- 3) Shri Babu Pandu Jadhav )  
Aged about 62 years, Retired Clerk, )  
Rationing Officer, and residing at )  
Nivara CHS, Plot No.D-1, Near Star )  
Colony, Manpada Road, Dombivli (E) )  
Mumbai. )
  
- 4) Shri Dilip Bhalchandra Joshi, )  
Aged about 66 years, Retired Clerk, )  
Assistant Rationing Officer, and )  
Residing at 16/10, Vivekanand CHS )  
Gurumandir Road, Near Joshi High )  
School, Dombivli (E) District Thane )
  
- 5) Shri Balshiram Pandurang Muluk, )  
Aged about 61 years, Retired Clerk, )  
Rationing Officer, and residing at )  
Gawari Chawl, No.1/2, Saikripa CHS )  
Salpadevipada, L.B.S. Road, Near )  
Harculas Company, Mulund (W) )  
Mumbai 400 080 ) **... Applicant**

**Versus**

- 1) Government of Maharashtra )  
 Through Principal Secretary, )  
 Food, Civil Supply and Consumer )  
 Protection Department, Mantralaya )  
 Mumbai 32 )
- 2) Government of Maharashtra, )  
 Through Principal Secretary, )  
 General Administration Department )  
 Mantralaya, Mumbai 32 )
- 3) Controller of Rationing and, )  
 Director of Civil Supplies, )  
 Having its office at Royal Insurance )  
 Building, 5th floor, 14 Jamshedji )  
 Tata Road, Churchgate, Mumbai 20 )
- 4) Deputy Controller of Rationing, )  
 Mumbai, having its office at Royal )  
 Insurance Building, 5th floor, 14- )  
 Jamshedji Tata Road, Churchgate )  
 Mumbai 400 020 )
- 5) Accountant General, Maharashtra )  
 State-1, having its office at )  
 M.K. Road, Mumbai )... **Respondents**

**Shri Om M. Lonkar, learned Advocate holding for Shri Makarand D. Lonkar, learned Advocate for the Applicant.**

**Smt. Archana B. Kologi, learned Presenting Officer for the Respondents.**

**CORAM : A.P. KURHEKAR, MEMBER (J).**

**DATE : 30.09.2022.**

**JUDGMENT**

1. The Applicants has filed these present O.As. claiming benefit of increment which was due on 1<sup>st</sup> July of the concerned year of retirement. They retired in between 2015 to 2020 on 30<sup>th</sup> June of the concerned year. Following period shows details of the date of joining, retirement etc.

<b>Sr. No.</b>	<b>Name of the Petitioner</b>	<b>Designation</b>	<b>Office at the time of retirement</b>	<b>Date of Joining</b>	<b>Date of Retirement</b>
1.	Ambadas Durgadas Wankhade	Assistant Rationing Officer.	Deputy Controller of Rationing, Churchgate, Mumbai 20	05/06/1993	30/06/2019
2.	Sudhakar Baliram Wankhede	Rationing Inspector.		18/01/1994	30/06/2017
3.	Babu Pandu Jadhav	Rationing Officer.		27/05/1982	30/06/2017
4.	Dilip Bhalchandra Joshi	Assistant Rationing Officer.		23/11/1982	30/06/2015
5.	Balshiram Pandurang Muluk	Rationing Officer.		30/06/1982	30/06/2020

2. This matter was taken up for admission yesterday and having noticed that the issue in the present O.A. is already decided by the Tribunal in various proceeding on the basis of decision of Hon'ble Supreme Court, Hon'ble High Court & this Tribunal the learned P.O. was directed to take the instruction from the Respondents as to why the Applicants being similarly situated person, similar relief should not be granted to them and mater was adjourned for today.

3. Today learned P.O. all that submits that even if the Tribunal as well as Hon'ble Supreme Court granted relief to grant increment due on 1<sup>st</sup> July to retired Government servant but the Government has not yet

taken policy decision so as to make it applicable to all Government servants.

4. The Government may take its own time but that cannot be the reason for not granting relief to the Applicants who are similarly situated person. Indeed the Government ought to have taken decision in this behalf much earlier so as to apply to all Government servants without asking them to approach the Tribunal and unnecessarily burdening the work of the Tribunal.

5. The Applicants stand retired on 30<sup>th</sup> June of the concerned year as shown in the Chart above. In terms of recommendation of 6<sup>th</sup> Pay Commission by way of uniformity, the decision was taken to grant annual increment on 1<sup>st</sup> July of each year. Since Applicants stand retired on one day earlier i.e. on 30<sup>th</sup> June of the concerned year, they were not granted the benefit of next increment, which was due and payable on 1<sup>st</sup> July of the concerned year. Thus, there is no denying that Applicants have put in one year complete service and were entitled for next increment, but for retirement one day earlier. Since they were not granted next increment due on 1<sup>st</sup> July of the concerned year, it resulted into less retiral benefits.

6. As stated above, issue of entitlement of Government servants to increment due on 1<sup>st</sup> July is no-more *res-integra* in view of various decision rendered by this Tribunal on the basis of Judgment of Hon'ble Supreme Court and Hon'ble High Court. In following cases the Government servant held entitlement to increment due on 1<sup>st</sup> July, though they retired one day earlier.

**A) W.P. No.15732/2017 in case of P. Ayyamperumal v/s The Registrar, Central Administrative Tribunal & Ors, decided on 15.09.2017 in which benefit of increment due on 1<sup>st</sup> July was granted and it was confirmed by the Hon'ble Supreme Court and SLP was also dismissed.**

**B) W.P. No.6396/2020 (Prakash Choudhary V/s State of Maharashtra) decided on 24.06.2021.**

**C) W.P.No.5864/2019 (Pandurang Vithobaji Dhumne & Ors. V/s State of Maharashtra & Ors.) decided on 02.03.2022.**

**D) W.P. No.3028/2021 (Kailash G. Sahuji & Ors. V/s The State of Maharashtra & Ors.) decided on 02.05.2022.**

**E) O.A. No.950/2019 decided with bunch of other O.As by this Tribunal on 05.07.2022.**

**F) O.A. No.801/2022 decided by this Tribunal on 08.09.2022.**

7. In view of aforesaid discussion the Applicants being similarly situated Government servants are entitled to the said benefits. Indeed, the Government of Maharashtra has also issued circular dated 28.02.2017 giving direction to the Departments for adherence to general judicial principles in service matters on the basis of decision of Hon'ble Supreme Court in **State of Uttar Pradesh & Ors. Vs. Arvind Kumar Srivastava** reported in **2015 (1) SCC 347** but in vain.

8. In this view of the matter, I have absolutely no hesitation to hold that the Applicants are entitled to benefit of increment which was due on 1<sup>st</sup> July of the concerned year. This notional inclusion of increment shall be considered for calculating Applicant's pension, gratuity and other retiral benefits subject to restriction of arrears of preceding three years. Hence the order.

### **ORDER**

A) The Original Application is allowed.

B) The Applicants are held entitled for increment due on 1<sup>st</sup> July of the concerned year of their retirement. It shall be reckoned with 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.

- C) 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.
- D) No order as to costs.

**Sd/-**  
**(A.P. Kurhekar)**  
**Member (J)**

Place: Mumbai  
Date: 30.09.2022  
Dictation taken by: N.M. Naik.

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