

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 539/2024(S.B.)

Kishor s/o Dnyaneshwar Gujalwar,
aged about 60 years,
occupation: retired, resident of Shivneri Society,
Nandurkar Layout, Yavatmal,
District: Yavatmal 445 001.

Applicant.

Versus

1. The State of Maharashtra,
through its Secretary,
Department of Water Resources,
Mantralaya, Mumbai -32.
2. The Executive Engineer,
Yavatmal Irrigation Division Yavatmal,
behind Date College, Patbandhare Vasahat,
Umarsara Road, Yavatmal.
3. The Accountant General (A & E) II,
Maharashtra, Civil Lines,
Nagpur 440 001.

Respondents.

Shri B.Kulkarni,Ld. Counsel for the applicant.
Smt.S.R.Khobragade, Ld. P.O. for the respondents 1 and 3.
Shri T.M.Zaheer, ld. counsel for the respondent no.2.

Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.

Dated: - 09th December, 2024.

JUDGMENT

Heard Shri B.Kulkarni, learned counsel for the applicant, Smt.S.R.Khobragade, learned P.O. for the respondents 1 and 3 and Shri T.M.Zaheer, learned counsel for the respondent no.2.

2. The learned counsel for the respondent no.2 submits that instructions are awaited.

3. The case of the applicant in short is as under-

This O.A. is filed by the applicant on the ground that he came to be retired on 30.06.2022, but the respondents have not granted 1st increment which falls due on 1st July. Hence, this O.A. for the following reliefs-

A] Quash and set aside the communication dated 4.4.2024, issued by the respondent No.3, the Accountant General (A & E) II, Nagpur [refusing to count increment falling due on 1st July 2022] and direct respondents to grant the applicant annual increment falling due on 1st July 2022 and accordingly AG shall revise his pension by calculating that increment.

B] Grant any other relief as may be deemed fit in the interest of justice.

4. Respondent no.3 has filed reply. It is submitted that A.G. has raised objection and therefore increment which falls due on 1st July was not granted to the applicant.

5. During the course of submission, learned counsel for the applicant has pointed out Judgment of this Tribunal in O.A.No.1137/2023. In the cited Judgment of Hon'ble Division Bench

of Madras High Court in the case of **P. Ayyamperumal Vs. The Registrar, Central Administrative Tribunal and Others** is considered. The Division Bench of Madras High Court has held that the employee who retires on 30th June is entitled to get increment which falls due on 1st July of the respective year. The said Judgment was challenged before the Hon'ble Supreme Court in SLP No.6185/2020, the said SLP was dismissed on 11.04.2023. Thereafter, the Government of Maharashtra has issued G.R. dated 28.06.2023.

6. The learned counsel for the applicant has pointed out the Judgment of this Tribunal in O.A.No.1137/2023. Para nos.4, 5, 6 and 7 of the Judgment are reproduced below-

4. *The reply is not filed. This O.A. is covered by the Judgment of the Hon'ble Division Bench of the Hon'ble Madras High Court in Writ Petition No.15732 of 2017 in Case of **P. Ayyamperumal vs. The Registrar, Central Administrative Tribunal and others** and the Judgment of the Hon'ble Supreme Court in the case of the **Director (Admn. and HR) KPTCL & Ors. Vs. C.P. Muddinamani & Ors.**, in Civil Appeal No.2471/23 in SLP No.6185/2020, decided on 11/04/2023.*

5. *After the Judgment of the Hon'ble Division Bench of the Hon'ble Madras High Court in the above cited decision, there were other Judgments of other Hon'ble High Courts on this issue. The Hon'ble Supreme Court has confirmed the Judgments of the Hon'ble High Court and come to the conclusion that the annual increment earned by the employees which falls due on 1st July of the respective years and who retire on 30th June, are entitled to get the same.*

6. *After the Judgment of the Hon'ble Supreme Court, the Government of Maharashtra has issued the Government G.R. dated 28/06/2023. The material portion of the G.R. is reproduced below -*

“मा. उच्च न्यायालय, खंडपीठ औरंगाबाद यांनी दिलेले उपरोक्त आदेश विचारात घेऊन सर्व विभागांना खालीलप्रमाणे कळविण्यात येत आहे.

जे राज्य शासकीय कर्मचारी दि. ३० जून रोजी सेवानिवृत्त झाले आहेत व ज्यांनी मागील १२ महिन्यांची अर्हताकारी सेवा केलेली आहे अशा सर्व सेवानिवृत्त कर्मचाऱ्यांना दि.०१ जुलै रोजीची काल्पनिक (Notional) वेतनावढा विचारात घेऊन, त्यांचे सेवानिवृत्तीवेतन सुधारीत करण्यासाठी संबंधित कार्यालयांकडे अर्ज करण्याबाबत सर्व संबंधित सेवानिवृत्तांना आवाहन करण्याबाबत, सर्व मंत्रालयीन प्रशासकीय विभागांनी त्यांच्या अधिनस्त कार्यालयातील विभागप्रमुखांना कळवावे.

त्यानंतर याप्रमाणे अर्ज प्राप्त झाल्यानंतर, संबंधित कार्यालयांनी वर नमूद केलेल्या मा. उच्च न्यायालय, खंडपीठ औरंगाबाद यांच्या उपरोक्त आदेशात नमूद केल्यानुसार संबंधितांना सुधारीत सेवानिवृत्तीविषयक लाभ अनुज्ञेय करावेत. तसेच सदर लाभ सुधारीत करण्यात आल्यानंतर त्यांनी अर्ज दाखल केलेल्या दिनांकाच्या मागील ३ वर्षांची थकबाकी अथवा त्यांच्या सेवानिवृत्तीचा दिनांक या पैकी जे कमी असेल तितकी थकबाकी देण्यात यावी. मा. उच्च न्यायालयाने दिलेल्या मार्गदर्शक तत्वांची पूर्तता करीत असलेल्या कोणत्याही सेवानिवृत्ताचा अर्ज फेटाळण्यात येऊ नये.

तसेच संबंधित कार्यालयांनी त्यांच्याकडे उपलब्ध असलेल्या माहितीच्या आधारे अशा प्रकरणांचा त्यांच्या सारावरव तपासणी करून निपटारा करावा.

उपरोक्त प्रमाणे कार्यवाही केल्यानंतर मा. उच्च न्यायालय, खंडपीठ औरंगाबाद यांनी त्यांच्या दिनांक १६.०२.२०२३ रोजी च्या आदेशातील परिच्छेद

क्रमांक ९ मध्ये नमूद केले आहे की, This notional inclusion of the annual increment would be considered for re-calculating their pension, gratuity, earned leave, commutation of pension benefits etc. तरी त्याप्रमाणे अर्जदारास लाभ अनुज्ञेय करण्यात यावे. ”

7. *The applicant is retired on 30/06/2022. The increment which falls due on 01/07/2022 should have been granted to him, but the A.G. Office has issued letter dated 21/07/2023 stating that the applicant is retired on 30/06/2022, therefore, he is not entitled for the annual increment which falls due on 01/07/2022. The A.G. should have taken into consideration the G.R. issued by the Government of Maharashtra dated 28/06/2023. The Government G.R. dated 28/06/2023 is very clear. As per this G.R., the employees who retire on 30th June, are entitled to get annual increment which falls due on 1st July of the respective years. Hence, the following order*

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ORDER

- 1) *The O.A. is allowed.*
- 2) *The respondents are directed to release the annual increment of the applicant which falls due on 01/07/2022.*
- 3) *The communication dated 21/07/2023 issued by the A.G. is hereby quashed and set aside.*
- 4) *The respondents are directed to give the consequential benefits after revising the pension of the applicant within three months from the date of receipt of this order.*
- 5) *No order as to costs.*

7. There is no dispute that the applicant was retired on 30th June. Therefore, he is entitled to get increment which falls due on 1st July, 2022. Hence, the following order-

ORDER

1. The O.A. is allowed.
2. The respondents are directed to release the annual increment to the applicant which falls due on 1st July, 2022. Communication issued by A.G. dated 04.04.2024 is hereby quashed and set aside.
3. The respondents are directed to pay consequential benefits to the applicant by revising the pension within a period of three months from the date of receipt of this order.
4. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated - 09/12/2024.
rsm.

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

Name of Steno : Raksha Shashikant Mankawde.
Court Name : Court of Hon'ble Vice Chairman.
Judgment signed on : 09/12/2024.
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