IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1694 OF 2023

Dadasaheb s/o. Dattu Ubale and Ors. ...Petitioners

V/s.

The State of Maharashtra & Ors. ...Respondents

Mr. Chintaman K. Bhangoji, for the Petitioners.

Mr. V.M. Mali, for Respondent No.1.

CORAM : SUNIL B. SHUKRE, &

SANDEEP V. MARNE, JJ.

Dated : 11 September 2023.

ORAL JUDGMENT : *(Per Sandeep V. Marne, J.)*

1. Heard.

2. **Rule.** Rule is made returnable forthwith. By consent of the learned counsel for the parties, heard finally.

3. This petition is filed by Petitioners seeking additional increments in pursuance of outstanding/excellent work recorded in their Confidential Reports.

4. The issue involved in the present petition is no more *res-integra* and has been resolved by several decisions of this Court. Reference in this regard can be made to the judgment and order passed in **Dhanraj Virshetty Biradar and Ors. V/s. The State of Maharashtra and Ors**, Writ Petition No. 14240 of 2019 decided on 6 October 2022 by this Court, Bench at Aurangabad and **Balu s/o. Tulshiram Pawar & Ors. V/s. The State of Maharashtra and Ors**, Writ Petition No.932 of 2021 decided on 20 June 2022. This Court has consistently taken a view that the scheme of grant of additional increments was discontinued for the first time by G.R. dated 24 August 2017 and that such decision would only apply prospectively. Infact, the Review Petitions filed by the State Government seeking review of various orders passed by this Court have been rejected by this Court by its order dated 30 August 2022 passed in Review Petition No. 170/2022 (**State of Maharashtra V/s.**

Rupchand s/o. Narayan Shinde). While rejecting State Government's Review Petition, this Court held as under :

> '12. After having heard learned Counsels at length, we find that the review applicants have not been able to point out any specific instructions issued prior to 24.08.2017 / 04.09.2018 for discontinuation of the schemes for grant of advance increments. Government Resolution dated 27.02.2009 and Circular dated 03.07.2009 do not indicate that any final decision was taken for discontinuation of schemes for advance increments. We proceed to examine the Government Resolution dated 27.02.2009 and Circular dated 03.07.2009 in details.
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> 13. Government Resolution dated 27.02.2009 came to be issued by the State Government essentially for conveying the decision of the State Government about acceptance or otherwise of various recommendations made by the Hakim Committee constituted for implementation of recommendations of the 6th Central Pay Commission. In Annexure to the said Government Resolution, each recommendation and decision of the State Government thereon have been enumerated. So far as the scheme for advance increment is concerned, the same is to be found at serial number 27 of the Annexure (para 3.24 of Committees Report). In that paragraph, the Committee recommended that for employees / Officers rendering outstanding service, increment @ 4% be awarded instead of 3% and such increment be granted once in 5 years. It was further recommended that since increment at higher rate was being granted, the then existing scheme for grant of one or two advance increments be discontinued. However, in the column 'Decision of State Government' against para 3.24, remark is made stating that 'separate action would be taken by General Administration Department'. As against various other recommendations, the remark 'accepted' has been made. The recommendation made in para 3.24 by the Hakim Committee was not accepted at least on the date of issuance of Government Resolution dated 27.02.2009 wp13915.21 and General Administration Department was to take a decision thereon

separately. Thus, it cannot be inferred that any specific decision was taken by the State Government on 27.02.2009 for discontinuation of scheme for grant of advance increment. Therefore, we do not find that the orders under review need to be disturbed on the basis of the Government Resolution dated 27.02.2009.

14. Now, we come to the Circular dated 03.07.2009. By the said Circular, it was directed that the issue of discontinuation of scheme for grant of advance increment was under consideration with the State Government and that some time was required for taking final decision. Therefore, it was further directed that temporarily the pay fixation of the employees in the 6th Pay Commission scales be made without considering the advance increments. Thus, the Circular dated 03.07.2009 was clearly issued as a temporary measure. The said circular did not communicate any decision to the effect that the State Government discontinued the scheme for grant of advance increments. Therefore, we find that the reliance of Mr. Dixit on the Circular dated 03.07.2009 is again of no avail.

15. We have carefully gone through the Government Resolution dated 24.08.2017 and Circular dated 04.09.2018. By the Government Resolution dated 24.08.2017, final decision came to be taken in respect of recommendation made by the Hakim Committee in para 3.24 of its report directing that during the period from 01.10.2006 to 01.10.2015 when revised pay scales as per 6th Pay Commission were admissible, the benefit of advance increments should not be granted. Thus, the final decision on para 3.24 of Committees Report was taken by the State Government only on 24.08.2017. However, instead of simply directing that the scheme for grant of advance increments is discontinued, the State Government sought to give retrospective effect to its decision by directing that the benefit of such advance increments be not given during the period from 01.10.2006 to 01.10.2015. While issuing such orders having retrospective effect, the State Government lost sight of the fact that several employees were already granted the benefit of advance increments during the relevant period.

> As we have observed earlier, the deliberations for discontinuation of the scheme started only on 27.02.2009 / 03.07.2009 and prior to that, admittedly, the issue of discontinuation of the scheme for grant of advance increment was not even under consideration. The instructions for temporarily doing pay fixation without advance increments were issued on 03.07.2009. This means that several employees must have already been granted advance increments during the period from 01.10.2006 to 03.07.2009. We, therefore, fail to comprehend as to how the State wp13915.21Government could have issued directions on 24.08.2017 that the benefit of advance increments should not be granted from 01.10.2006 onwards. Even in respect of employees becoming eligible for grant of advance increments after 27.02.2009, we do not find any error in the view taken by this Court that the Government Resolution dated 27.08.2017 would only have prospective effect.'

5. Accordingly, Writ Petition is allowed. Respondents are directed to consider the eligibility of Petitioners for grant of additional increments in the event, outstanding/excellent work is reflected in their Confidential Reports. If Petitioners are found to be eligible for grant of benefit of additional increments, the same be extended to them within a period of 8 weeks from today. With the above directions, the Writ Petition is disposed of. Rule is made absolute in the above terms.

NEETA SHAILESH SAWANT

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(SANDEEP V. MARNE, J.) **(SUNIL B. SHUKRE, J.)**