

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9048 OF 2014

Ramesh Bhalchandra Sathe Petitioner
Vs.
The State of Maharashtra & Others Respondents

Ms Indrayani M. Koparkar for the Petitioner.
Ms S.D. Vyas, "B" Panel Counsel, for Respondent
Nos.1 & 2.
Mr. A.P. Singh i/by M/s. S.K. Srivastav & Co. for
Respondent No.3.

CORAM: S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.

DATE : FEBRUARY 22, 2019

P.C:

1. Heard Ms Koparkar, appearing for the petitioner.

The writ petitioner claims the following two reliefs:-

"(a) This Hon'ble Court may direct the Respondent No.3 to give increment to the Petitioner with effect from 01/01/2006.

(b) This Hon'ble Court may by appropriate writ or directions, direct the Respondent Nos.1 and 3 to modify the GR dated 30/10/2009."

2. On 30-10-2009, a Government Resolution was issued and by which, firstly, there is no date fixed so as to grant the revised pay-scale but insofar as pension is concerned, there was a cut-off date prescribed and only those in service on 1-9-2009 or thereafter were held to be entitled to pension.

3. This cut-off date is to be found in Clauses (6) & (6.1) of the Government Resolution, at page 14 of the paper-book.

4. The cut-off date was sought to be justified by filing an affidavit of the Joint Director of Technical Education, Maharashtra State. He says that the petitioner was getting pension of Rs.12,686/- per month from February, 2006 to March, 2012. His pension was revised as per the 6th Pay Commission on 13-4-2012. The petitioner retired on superannuation on 31-1-2006. The petitioner is not entitled to the benefits under the Government Resolution on account of the prescription in the Government Resolution.

5. In the affidavit itself it has been stated that a

Division Bench of this Court, sitting at Aurangabad, delivered a Judgment on 28-4-2014 in a batch of petitions being **Writ Petition No.8985 of 2011** {*Smt. Savitribai Narsayya Guddapa v. The State of Maharashtra & Others*} with other petitions. The Court declared that, the cut-off date which has been applied to those retirees from 27-2-2009 *vis-a-vis* the employees who retired between 1-1-2006 to 26-2-2009 for payment of revised pension is unconstitutional. Though the matter was carried in the Supreme Court and the Judgment was stayed for some time, now the Government has lost the battle in the Supreme Court. On 27-12-2018 it has issued a fresh Government Resolution and in accordance with the Judgment delivered by this Court which has since been upheld by the Supreme Court.

6. In view thereof, the grievance of the petitioner is redressed.

7. Needless to clarify that the petitioner shall be held to be entitled to the revised pension as per the scale set out in this Government Resolution and without applying the cut-off date

mentioned therein. All the amounts due and payable in terms thereof be released and paid to the petitioner as expeditiously as possible and in any event, within a period of four months from the date of communication of this Order.

8. Further needless to clarify that in the event the pension amount is required to be revised and in terms of the other stipulations of the Government Resolution dated 30-10-2009 and its Corrigendum of 15-12-2009, then, even those benefits be extended to the petitioner within the above period.

9. The writ petition is allowed in the above terms and accordingly stands disposed of but without any order as to costs, by taking on record a copy of the Government Resolution dated 27-12-2018

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)