

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4016 OF 2021

Shahaji s/o. Kisanrao Kale
Age 59 years, Occupation,
Retired Assistant Superintendent
District Court, Osmanabad,
R/o. Swami Samarth Mandir,
Shahu Nagar, Osmanabad.

.. Petitioner.

Versus

1. State of Maharashtra
Department of Law & Judiciary,
Mantralaya, Mumbai.
2. The Principal Secretary
Law and Judiciary Department,
Mantralaya, Mumbai.
3. The Principal District Judge, Osmanabad
(Administrative Capacity) District Court,
Osmanabad.
4. Accountant General (A & E) – II , Nagpur,
Through its Account Officer,
Pay Verification Unit Department,
Nagpur.
5. Accountant General
Through its Account Officer
Pay Verification Unit
Department Aurangabad.

.. Respondents.

Mr. Gaurav L. Deshpande, Advocate for petitioner
Mr. P.G. Borade, AGP for respondent No.1 and 2
Mr. C.K. Shinde, Advocate for respondent No.3.

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**CORAM : C.V. BHADANG &
SANDIPKUMAR C. MORE, JJ.**

DATE : 22 JUNE, 2022.

ORAL JUDGMENT [PER C.V. BHADANG, J]:-

This petition can be disposed of on a short count. The petitioner was appointed as a Junior clerk in the Judicial establishment at Tuljapur in the year 1989. In the year 2004, the petitioner was promoted as a Senior Clerk and in 2014, he was further promoted as Assistant Superintendent.

2. According to the petitioner, the date of increment of the petitioner happens to be 1st July of every year. The petitioner retired on 30th June, 2020. However, while forwarding the pension papers, the increment which was due on 1st July, 2020 was not taken into consideration. The petitioner made a representation dated 21st January, 2020 which was rejected on 30th June, 2020. Hence, this petition.

3. We have heard the learned counsel for the petitioner and respondent No.3 as well as learned AGP for respondent Nos. 1 and 2 and the learned counsel appearing for respondent Nos. 4 and 5.

4. The learned counsel for the petitioner has placed reliance on the decision of this Court in W.P. No. 5864 of 2019 in the matter of Pandurang Dhumne and others Vs. State of Maharashtra and others decided on 2.3.2022 (Nagpur Bench), in which a similar issue had arisen. This Court has noted that only because incumbents were not in service as on 1st July, they were declined the benefits of said annual increment and consequently, pay, pension and other retiral benefits are fixed on a disadvantageous position. The Division Bench of this Court has inter alia held that salary increment typically represent a portion of what an employee earns in a year. Thus, in view of the fact that, the employee had worked in the whole year i.e. 1st July, 2019 to 30th June, 2020, the petitioners therein were held entitled to increment payable on 1.7.2020.

5. We are in agreement with the view taken by the Division Bench in Pandurang Dhumane (supra). In such circumstances, the petition is allowed in terms of prayer clauses (C) and (D), which read thus :-

“C. It be declared that the petitioner though retired on 30.6.2020 is entitled for the increment fell due on 1.7.2020 thereby declaring the petitioner has one full year’s service on 30.6.2020.

D. The respondents may kindly be directed to refix the pay of the petitioner considering one increment on 30.6.2020 thereby be directed to pay the arrears calculated after re-fixation.”

6. The concerned authorities shall forward pension papers of the petitioner, as expeditiously as possible, and preferably within a period of three months from the date of receipt of this order.

Petition stands disposed of accordingly. In the circumstances, there shall be no orders as to costs.

SANDIPKUMAR C. MORE, J.
grt/-

C.V. BHADANG, J.