

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

906 WRIT PETITION NO.9411 OF 2021

NAVNATH RAMJI DHUMALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Mathpati Shivkumar K.
AGP for Respondent Nos. 1 to 3 : Mrs. R.P. Gaur

942 WRIT PETITION NO.6332 OF 2019

GOPAL VASANTRAO KULKARNI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Mathpati Shivkumar K.
AGP for Respondent Nos. 1 to 3 : Mrs. V. N. Patil-Jadhav

944 WRIT PETITION NO.8950 OF 2019

BALAJI PANDURANG TUREWALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. Mathpati Shivkumar K
AGP for Respondent Nos 1 to 4/State : Mrs. R.P. Gaur
Advocate for Respondent Nos. 5 & 6 : Mr. P.R. Tandale

**947 WRIT PETITION NO.14231 OF 2019
WITH WP/14233/2019 WITH WP/14241/2019**

KAVITA PANDURANG SURYWANSHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. Mathpati Shivkumar K
AGP for Respondent Nos. 1 to 4 : Mr. A.S. Shinde
Advocate for Respondent Nos. 5 & 6 : Mr. P.R. Tandale

948 WRIT PETITION NO.14248 OF 2019

DATTATRY PURUSHOTTAM SHIRURE AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Mathpati Shivkumar K.
AGP for Respondent Nos 1 to 4/State : Mrs. R.P. Gaur
Advocate for Respondent Nos. 5 & 6 : Mrs. V. N. Patil-Jadhav

...

960 WRIT PETITION NO.3121 OF 2021

BALAJI VINAYAK YELAPURE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Mathpati Shivkumar K.
AGP for Respondent Nos 1 to 4/State : Mr. S.B. Yawalkar
Advocate for Respondent Nos. 5 & 6 : Mr. P.R. Tandale

...

961 WRIT PETITION NO.3146 OF 2021

KAVITA DAGDUAPPA DADGE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Mathpati Shivkumar K.
AGP for Respondent Nos 1 to 4/State : Mr. S.B. Yawalkar
Advocate for Respondent Nos. 5 & 6 : Mr. P.R. Tandale

...

966 WRIT PETITION NO.9410 OF 2021

SACHIN KANTARAO BAWGE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Mathpati Shivkumar K.
AGP for Respondent Nos 1 to 3/State : Mrs. R.P. Gaur
Advocate for Respondent Nos. 4 : Mr. P. R. Tandale

...

993 WRIT PETITION NO.3118 OF 2021

ASHOK BHAUSAHEB GADAKH AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Mathpati Shivkumar K.
AGP for Respondent Nos 1 to 4/State : Mr. A.S. Shinde
Advocate for the Respondent No. 6 : Mr. A.D. Aghav

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 14.09.2022.

PER COURT : (PER : SANDEEP V. MARNE, J.)

We have heard both the sides.

2. These petitions are filed for grant of benefit of advance increments for outstanding work.

3. The dispute has essentially arisen on account of Government Resolution dated 24.08.2017, by which a decision was taken not to grant the benefit of advance increments during 6th Pay Commission regime from 01.10.2006 to 01.10.2015.

4. In various judgments of this Court it was repeatedly held that the Government Resolution dated 24.08.2017 would operate prospectively and would not have the effect of retrospective denial of advance increments prior to issuance thereof. The State Government and various Zilla Parishads had filed Review Petitions seeking review of various orders passed by this Court. It was *inter alia* sought to be contended in the said review petitions that even though the ultimate decision for stoppage of the scheme for advance increments might have been taken on 24.08.2017, it was earlier directed by way of Circular dated 03.07.2009 to undertake the exercise of pay fixation in 6th Pay Commission Pay Scales without taking into consideration the advance increments.

5. We had the occasion to consider the entire issue in detail while deciding such Review Petitions. By judgment and order dated 30.08.2022, we have rejected the Review Petitions after considering all the objections raised by the State Government and Zilla Parishads. We have held that no specific instructions were issued before 24.08.2017 for discontinuation of

the scheme of advance increments. We reproduce paragraph nos.12 to 15 of the judgment and order dated 30.08.2022 pass in Review Application (Civil) No.170 of 2022 in Writ Petition No.13760 of 2019 (The State of Maharashtra and Anr. Vs. Rupchand S/o. Narayan Shinde and Ors.):

“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.

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 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 Government 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.”

6. Thus it is now a well settled position that the scheme of grant of

advance increments was discontinued for the first time by Government Resolution dated 24.08.2017 and that such decision would operate only prospectively.

7. We, therefore, dispose of the writ petitions by declaring that the Government Resolution dated 24.08.2017 would apply prospectively. The eligibility of each of the petitioners may be considered by the respondents for grant of advance increments in accordance with the provisions of Circular dated 14.12.2006 but shall not be rejected only on the ground of issuance of the Government Resolution dated 24.08.2017. We do not express any opinion about eligibility or otherwise of the petitioners in that regard. In case, the petitioners are found eligible for grant of benefit of advance increments, the consequential benefits be paid to the respective petitioners within a period of eight weeks from today.

(SANDEEP V. MARNE J.)

(MANGESH S. PATIL, J.)

mkd/-