

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7178 OF 2022

HARISHCHANDRA LAXMAN MAGAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...

Advocate for the Petitioners : Shri Kore Ganesh J.
AGP for the Respondents 1 to 4 / State : Shri S.G. Sangle
Advocate for Respondent 5 : Shri B.B. Bhise

...

CORAM : RAVINDRA V. GHUGE
&
ANIL L. PANSARE, JJ.

DATE :- 14th July, 2022

Per Court :-

1. The petitioners have put forth prayer clauses B and

C as under :-

“B) *By issuing writ of mandamus or any other appropriate writ or direction in like nature, the respondent No.5 (Z.P. Osmanabad) may kindly be directed to give/ release the benefit of one annual increment due on 01st July, 2019 and 01st July 2015 of respective years of retirement as per the Exhibit A.*

C) *By issuing writ of mandamus or any other appropriate writ or direction in like nature, the respondents to pay all monetary benefits such as pension, gratuity, earned leave and commutation of pension on the basis of such annual increments.”*

2. Issue notice to the respondents. The learned AGP waives service of notice on behalf of respondent Nos.1 to 4. Shri Bhise, learned advocate, waives service of notice on behalf of the contesting respondent No.5.

3. Petitioner No.1 has superannuated on 01.07.2019 and petitioner No.2 has superannuated on 01.07.2015. Both were entitled to the benefits of the last annual increment for the periods 01.07.2018 to 30.06.2019 and 01.07.2014 to 30.06.2015, respectively.

4. This issue is no longer res-integra in the light of the judgment delivered by the Madras High Court on 15.09.2017 in Writ Petition No.15732/2017 filed by **P.Ayyamperumal Vs. The Registrar, Central Administrative Tribunal and others**, which has been sustained by the Honourable Supreme Court. This Court (Coram : Ravindra V. Ghuge and Anil L. Pansare, JJ) has also delivered the judgment dated 23.06.2022 in Writ Petition No.6256/2022 filed by ***Changdeo Genuji Dudhat and others vs. State of Maharashtra and others*** and connected petitions. We have corrected paragraph 10 of our judgment dated 23.06.2022 vide order dated 13.07.2022.

5. In view of the above, the case of the petitioners is

squarely covered by the said judgment dated 23.06.2022 and they stand entitled for the benefits as ordered in paragraph 9 and corrected paragraph 10 of the judgment dated 23.06.2022, which read as under :-

- “9. *It is quite apparent that the judgment delivered by the Madras High Court in P.Ayyamperumal (supra), became a cause for these petitioners to approach this Court. None of them had challenged the non-inclusion of the annual increment in their pensionary benefits for calculation purposes, when they superannuated on 30th June of a particular year. As the judgment delivered in P. Ayyamperumal (supra) became known to all, that these petitioners have approached this Court. Some of the petitioners have superannuated in between 2016 and 2021.*
10. *Considering these aspects, we are of the view that the arrears of such benefits as granted by us in paragraph 9 hereinabove, could be restricted for a reasonable period. As such, these petitioners would be entitled for the arrears of such benefits for a period of three years preceding the dates of their filing of the writ petitions or as per actuals, whichever is less. We direct the payment of such arrears accordingly and expect such payment to be made to these petitioners, on or before 30.08.2022.”*

6. As such, respondent No.5 would grant benefits to the petitioners as directed in ***Changdeo Genuji Dudhat (supra)*** on or before 15.09.2022. Thereafter, prayer clause C would be

considered by respondent No.5 accordingly, on or before 15.10.2022. This Writ Petition is, accordingly, disposed off.

7. Since we are noticing that petitions after petitions are being filed in this Court for seeking benefits as granted in **P.Ayyamperumal (supra)** and in ***Changdeo Genuji Dudhat (supra)***, we deem it appropriate to direct the learned Registrar (Judicial) of this Court to place copies of the judgments delivered in **P.Ayyamperumal (supra)** and in ***Changdeo Genuji Dudhat (supra)*** before the Chief Secretary of the State of Maharashtra so as to give standing instructions to all concerned Departments to make this law applicable so as to avoid unnecessary litigation, save and except if the same has been interfered with by the Honourable Supreme Court.

kps

(ANIL L. PANSARE, J.)

(RAVINDRA V. GHUGE, J.)