

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

943 WRIT PETITION NO.9602 OF 2021

BALASAHEB NAGORAO PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

AND

949 WRIT PETITION NO.11846 OF 2021

HANMANT MASHNAJI WADEKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS SECRETARY AND ANOTHER

AND

969 WRIT PETITION NO.2857 OF 2021

SHIVAJI KANHBARAO KHARAT AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS SECRETARY AND OTHERS

AND

970 WRIT PETITION NO.3200 OF 2021

PRAMOD RAMESH HUDGE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for petitioner : Mr. Estling S. Murge (WP/9602/2021, WP/11846/2021)

AGPs for the respondent – State : Mr. K.N. Lokhande, Mr. S.B. Yawalkar,
Mr. A.S. Shinde and Mrs. Vaishali N. Patil-Jadhav

Advocate for the respondent no. 2 : Mr. A.B. Shinde (WP/9602/2021)
Mr. S.B. Pulkundwar, Advocate for the respondent no. 2 (WP/11846/2021)
and for respondent no. 4 (WP/2857/2021)

Advocate for petitioner : Mr. S.K. Mathpati (WP/2857/2021, WP/3200/2021)
Advocate for respondent no. 4 : Mr. P.R. Tandale (WP/3200/2021)

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

DATE : 22 SEPTEMBER 2022

ORAL ORDER (SANDEEP V. MARNE, J.) :

The issue is about grant of advance increment to ideal Gramsevak. The scheme was introduced by Government Resolution dated 10-11-1998 for grant of one advance increment to Gramsevak who are adjudged 'Outstanding' in their confidential reports. The scheme appears to be in operation as on 26-10-2010 whereby the Government had issued certain instructions for timely holding of functions for award of the certificates.

2. In regard to grant of additional / advance increments for outstanding work to the State Government employees, a circular was issued on 03-07-2009, directing all the departments to ignore the additional / advance increment as the State Government was considering implementation of recommendations of Hakim Committee which had recommended stoppage of such increments. Ultimately, a decision in that regard came to be taken by the Government Resolution dated 24-08-2017 whereby the benefit of grant of additional / advance increment was withdrawn.

3. In numerous decisions, this Court has taken a view that the scheme of additional / advance increments which came to be discontinued by the State Government by Resolution dated 24-08-2017 would apply only prospectively. This Court has considered

the Circular dated 03-07-2009 and has held that the Circular did not have the effect of discontinuation of the scheme.

4. In the present case, we are concerned with little different scheme i.e. award of advance increment to ideal Gramsevak who are adjudged 'Outstanding' in the confidential reports. However, it appears that applying the Government Resolution dated 24-08-2017, the scheme of grant of advance increment to Gramsevak is also discontinued. Letter dated 31-01-2014 is brought to our notice by which the Government of Maharashtra, Rural Development and Water Conservation Department had directed all the Divisional Commissioners not to extend the benefit of advance increment to the employees of Zilla Parishad. Even though it was stated in the said letter that the recommendations of the Hakim Committee was accepted by the State Government, it has already been held in various judgments that the recommendation was finally accepted only on 24-08-2017.

5. The State Government and Zilla Parishads had filed review petitions seeking review of the orders passed by this Court. By judgment and order dated 30-08-2022 passed by this Court in Review Application (Civil) no. 170 of 2022 in Writ Petition no. 13670 of 2019 (*The State of Maharashtra and another Vs. Rupchand S/o. Narayan Shinde and Others*) and connected Review Applications, we have

rejected the said review petitions. In paragraphs nos. 12 to 15 of the judgment (supra), we have 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.

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. Consequently, we hold that the scheme of grant of advance increment to ideal Gramsevakhs also continued till 24-08-2017 as Government Resolution dated 24-08-2017 would operate prospectively.

7. Accordingly, we allow the present petitions and direct that in respect of those petitioners who are already granted advance increments, they be granted the monetary benefits arising out of the same. In case of those petitioners who became eligible for grant of advance increments but such increments were not sanctioned, the same be sanctioned and consequent monetary benefits be paid. In respect of such of the employees, where recovery is effected, such recovery is set aside and the recovered amount be refunded within four months. The payments to the petitioners be made within a period of 4 months from today.

8. Writ petitions are accordingly allowed. No costs.

[SANDEEP V. MARNE]
JUDGE

[MANGESH S. PATIL]
JUDGE

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