

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10569 OF 2021

Gangadhar Kashinath Dongre
Age : 72 years, occ : pensioner,
R/o N-9, R-27, House No. 83,
MIG Pratap Nagar, CIDCO,
Behind Baliram Patil High School,
Aurangabad

Petitioner

versus

1. The State of Maharashtra
Through its Additional Chief
Secretary, School Education
Department, Mantralaya,
Mumbai -32.
2. The Additional Chief Secretary,
Finance Department, Mantralaya,
Mumbai – 32.
3. The Education Officer (Secondary),
Zilla Parishad, Aurangabad.
4. The President / Secretary,
Savitribai Phule Gramin Prasthasthan
Aurangabad.
R/o C/o Pandit Jawaharlal Nehru
College, Narlibag, Aurangabad.
5. The Head Master / Principal
Aplaya Vidyalaya, Khirdi, Taluka
Khultabad Dist. Auranabad,

Respondents

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Mr. V.G. Salgare, Advocate for the petitioner.
Mr. K.N. Lokhande, A.G.P. for respondent Nos.1 to 3.
Mr. Vivek Dhage, Advocate for respondent No. 5.

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CORAM : C.V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.

DATE : 7 JULY 2022

JUDGMENT (PER C.V. BHADANG, J.) :

Rule. Rule made returnable forthwith. The learned A.G.P. waives service for respondent Nos.1 to 3. The learned Counsel Mr. Vivek Dhage waives service for respondent No.5. Considering the limited issue involved, the service of notice on respondent No.4 is waived. Heard finally by consent of the parties.

2. The petitioner retired from service on 30 June 2007 and his annual increment which was due on 1 July 2007 has been denied, which brings the petitioner to this Court.

3. The issue may not detain us long, as it is no longer *res integra* and covered by various orders passed by this Court. This Court, in Writ Petition No. 6396 of 2020 (***Prakash Tulshiram Choudhari vs The State of Maharashtra and others***), by an order dated 24 June 2021, after placing reliance on the decision of the Madras High Court dated 15 September 2017 in Writ Petition No. 15732 of 2017 (***P. Ayyamperumal vs. The Registrar, Central Administrative Tribunal and others***), has held that the petitioner therein was entitled to the last annual increment and accordingly directed calculation of the monetary benefits payable to the petitioner therein. It appears that the decision of Madras High

Court was carried to the Supreme Court in Special Leave Petition (Civil) Diary No.22283/2018 and the said SLP was dismissed on 23 July 2018. It is not necessary to multiplex decision on the point. However, this Court has consistently taken and followed the same view.

4. In that view of the matter, the petition is allowed. As the petitioner has retired on superannuation on 30 June 2007, we hold that he would be entitled to the last annual increment falling on 1 July 2007. As the petitioner has retired on 30 June 2007, it would be appropriate to restrict the monetary benefits arising out of the grant of annual increment on 1 July 2007 for a period of three years preceding the date of his superannuation or the actual benefits, whichever is less. Same course has been followed by this Court in Writ Petition No. 6638 of 2022 (*Dattatray Madhavrao Jogdankar vs The State of Maharashtra and others*). We direct that the payment of arrears of such monetary benefits shall be made on or before 30 September 2022.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.