IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 10472 OF 2022

Venkat Vishwanath Pujari And Others .. Petitioners

VERSUS

The State of Maharashtra Through it's Secretary And Others .. Respondents

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Mr. S. B. Bhosale, Advocate for the petitioners.
Mr. S. G. Karlekar, AGP for Respondent-State.
Mr. S. B. Ghute, Advocate for respondent Nos.3 to 7
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CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, J.

DATE : 11.10.2022

PER COURT :-

1. The petitioners have put forth prayer Clauses (C) and (D), which read as under :

> (C) By issuing a Writ of mandamus or any other appropriate writ, order or directions in the like nature, the respondent No. 3 to 7 may kindly be directed to decide representation dated 01.07.2022 and 18.07.2022 submitted by the petitioners with immediate effect.
>
> (B) By issuing a Writ of mandamus or any other appropriate writ, order of directions in the like nature, the respondent No. 1 to 3 may kindly be directed to grant one annual increment in favour of the petitioners which falls on 1st of July of every year considering the service of the petitioners full year."

2. The issue raised by the petitioners in this petition, is no longer res-integra, as an exhaustive order has been passed by this Court on 04.05.2022, in Writ Petition No. 14632 of 2021, filed by Balaji Manikrao Biradar Vs. The State of Maharashtra and Ors and in connected petitions.

3. The service details of these petitioners as regards their initial dates of appointments, dates of last increment and the dates of their superannuation, are mentioned as under :

Sr. No.	Name of Petitioners	Date of Appointment	Date of Last Increment payable	Date of Superannuation/ Retirement
1	Venkat Vishwanath Pujari	01.07.1985	01.07.2022	30.06.2022
2	Dadahari Jalindar Salgar	14.05.1985	01.07.2021	30.06.2021
3	Mahadeo Siddhaya Vibhute	11.12.1980	01.07.2016	30.06.2016
4	Ravi Bhaurao Jogdan	15.08.1986	01.07.2022	30.06.2022
5	Annasaheb Ramling Mundhe	18.01.1986	01.07.2020	30.06.2020

4. In Balaji Manikrao Biradar Vs. The State of Maharashtra and Ors, this Court had held in paragraph No. 2 to 8 is as under :

> "2. In all these petitions, the issue that has been raised by the petitioners is as regards the notional addition of an annual increment, while computing their pension and pensionary benefits. Such increment became due and payable one day after their superannuation. This issue has been

considered and decided by this Court [Coram : Ravindra V. Ghuge & Avinash G. Gharote, JJ.] by order dated 24th June, 2021 in Writ Petition No.6396 of 2020 filed by **Prakash Tulshiram Chaudhari Vs. State of Maharashtra and others**. This order was assailed by the State of Maharashtra before the Hon'ble Supreme Court of India in Special Leave to Appeal (C) No. 206 of 2022. The Hon'ble Apex Court [Coram : Hon'ble Mr. Justice S. Abdul Nazeer & Hon'ble Mr. Justice Krishna Murari] passed an order on 12.01.2022 concluding as under:-

> "We are not inclined to interfere with the impugned order. The Special Leave Petition is, accordingly, dismissed.
>
> Pending application also stands disposed of."

3. This Court had based it's order dated 24th June, 2021, on the conclusions arrived at by the learned Division Bench of 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**. We had referred to the said judgment in our order dated 24.06.2021 and had concluded as under:-

> 3. The petitioner had raised a very short issue before us. His retirement fell on 30.06.2019 and had he retired on 01.07.2019, he would have been entitled for annual increment as is provided under Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. Considering this provision, the Government of Maharashtra revised the Maharashtra Civil Services (Revised Pay) Rules, 2009 and brought uniformity in the payment of annual increments. There is no dispute that the petitioner had worked up to 30.06.2019. He has thus, completed one year prior to his retirement. He would be entitled for an annual increment, but for the fact that the Rules prescribed that he would be entitled to such increment if he has worked on 01.07.2019, when it became payable.

4. The issue raised in this petition has been squarely covered by the judgment delivered by the learned Division Bench of 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**. The facts in the case before the Madras High Court were set out in paragraphs 5 and 6 and the Madras High Court drew it's conclusions in paragraph 7 and allowed the petition. Paragraphs 5 to 7 read as under :-

> "5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e. from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.
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> 6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its Secretary to Government, Finance Department and others v. M.Balasubramaniam, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012,

wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs."

5. The judgment of the Madras High Court in **P.Ayyamperumal** (supra) was carried in Special Leave Petition (Civil) Diary No.22283/2018. By order dated 23.07.2018, the Honourable Supreme Court dismissed the said Special Leave Petition.

6. There is no dispute that Rule 10 of the Maharashtra Civil Services (Revised Pay) Rules, 2009 is identical to the amended Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008 in relation to the uniformity in annual increments.

7. Considering the above, this Writ Petition is allowed. As the petitioner is superannuated on 30.06.2019, we hold that he would be entitled to the last annual increment, which he has been deprived of and the respondents shall,

accordingly, calculate the said monetary benefits expeditiously so as to be paid to the petitioner on or before 30.09.2021. So also, as the grant of this annual increment would affect his pension, gratuity, earned leave, commutation benefits, etc., the respondents would recalculate the same and make the payment of arrears on or before 30.09.2021 and shall ensure that the revised pension is also paid to the petitioner accordingly.

4. In all these matters, all these petitioners have superannuated on the 30th day of June of the particular years, as they were due for superannuation. For the sake of clarity, the names of the petitioners and their dates of superannuation are mentioned in a chart hereunder :-

Name of the petitioners, Initial Date of Appointments, Date of Last increment & Date of superannuation of petitioners.

Sr. No.	Writ Petition No.	Name of Petitioners	Date of Appointment	Date of Last increment	Date of Supernnuation/Retirement
1.	14632/2021	Balaji S/o Manikrao Biradar	15.07.1988	01.07.2020	30.06.2021
2.	5630/2021	Baliram S/o Changdeo Bhosale	23.04.1980	01.07.2011	30.06.2012
		Ankush S/o Ganpatrao Ubale	13.07.1978	01.07.2014	30.06.2015
		Bhaurao S/o Krushnaji Sonone	13.04.1978	01.07.2006	30.06.2007
		Arjun S/o Vitthalrao Sasane	05.08.1982	01.07.2018	30.06.2019
		Ramrao S/o Gabaji Tathe		01.07.2009	30.06.2010
3	9464/2021	Bhagwan S/o Kisan Shelke	17.11.1982	01.07.2019	30.06.2020
		Laxman S/o	26.07.1983	01.07.2012	30.06.2013

		Janu Tandale			
		Ankush S/o Bhanudas Kakade	22.07.1983	01.07.2013	30.06.2014
4.	9465/2021	Rajani W/o Anant Dehade		01.07.2018	30.06.2019
		Smt. Taisin Naimvddin Mirza		01.07.2016	30.06.2017
		Smt. Leela Rohidas Suryawanshi	17.05.1983	01.07.2019	30.06.2020
		Smt. Usha Shantaram Gaikwad	20.05.1983	01.07.2019	30.06.2020
		Smt. Suman Ratanrao Jadhav through its legal heir Ratanrao S/o Rangnathrao Jadhav	07.01.1986	01.07.2018	30.06.2019
5.	9466/2021	Shrishailya S/o Kalyanrao Patil	11.06.1992	01.07.2020	30.06.2021
6.	9467/2021	Dhondu S/o Hachu Pawar	14.09.1972	01.07.2006	30.06.2020
		Ankush S/o Sonajirao Dabhadgaonkar		01.07.2010	30.06.2011
		Bhikaji S/o Harsing Jadhav	24.07.1970	01.07.2006	30.06.2007
7.	9468/2021	Narayan S/o Krishnaji Dhumal	01.01.1989	01.07.2007	30.06.2008
8.	9469/2021	Sunanda S/o Rajaram Shinde	16.08.1984	01.07.2016	30.06.2017
9.	9470/2021	Pramod S/o Narayanrao	16.08.1976	01.07.2010	30.06.2011

		Dasare			
		Kishan S/o Marotrao Maind	06.08.1990	01.07.2011	30.06.2012
		Dwarkadas S/o Nagorao Kulkarni	12.07.1989	01.07.2017	30.06.2018
10.	9505/2021	Mahadeo S/o Sakharam Dabhade	15.01.1982	01.07.2018	30.06.2019
		Mahadev S/o Khemaji Bhandwalkar	15.10.1982	01.07.2018	30.06.2019
		Bharat S/o Murlidhar Lakhe	28.11.1983	01.07.2017	30.06.2018
		Dagadu S/o Bapurao Veer	01.02.1981	01.07.2017	30.06.2018
11.	3147/2021	Ganeshrao S/o Shankarrao Shinde	01.07.2016	30.06.2017	30.06.2017
		Jagannath S/o Sakharam Giri	01.01.1986	01.07.2016	30.06.2017
		Baburao S/o Madhavrao Shinde	29.07.1984	01.07.2017	30.06.2018
		Balaji S/o Vitthalrao Narwade	01.01.1986	01.07.2018	30.06.2019
		Rama S/o Babarao Kukade	01.01.1986	01.07.2016	30.06.2017
		Pathan Jamsheedkhan Ajijkhan	18.08.1981	01.07.2015	30.06.2016
		Tukaram S/o Parasram Gajabhare	31.07.1984	01.07.2016	30.06.2017
		Smt. Chandrakala Ranganath Kadtan	27.07.1984	01.07.2017	30.06.2018

		Vithal S/o Shamsing Pawar	17.08.1981	01.07.2013	30.06.2014
		Dilip S/o Kesharchand Kanhed	02.01.1986	01.07.2018	30.06.2019
		Digambar S/o Kishanrao kale	18.10.1978	01.07.2014	30.06.2015
		Pandurang Chimnaji Waghmare	02.09.1989	01.06.2014	30.06.2015
		Sudhakarrao S/o Wamanrao Garad	10.07.1986	01.07.2016	30.06.2017
		Gapal S/o Wamanrao Katkar	25.06.1984	01.07.2017	30.06.2018
12.	13208/2019	Shivaji Ramrao Tidke	17.12.1980	01.07.2017	30.06.2018
		Laxman Ramchandra Yermalkar	13.07.1982	30.07.2014	30.06.2015
		Arun Bhanudas Joshi	23.04.1981	01.07.2017	30.06.2018
		Vinayak Purushtam Kulkarni	30.08.1975	01.07.2012	30.06.2013
		Govind Janaba Sherkhane	28.07.1982	01.07.2015	30.06.2016
		Vishnu Raghunath Chaudhar	23.12.1982	01.07.2018	30.06.2019
		Gorakh Vithoba Shinde	30.04.1981	01.07.2015	30.06.2016
		Hiralal Umesh Jarwal	15.10.1983	01.07.2018	30.06.2019
		Sheshrao Shripatrao	22.05.1981	01.07.2018	30.06.2019

		Katkar			
		Syed Nizamudding Syed Imamudding	18.08.1982	01.07.2014	30.06.2015
		Ram Baburao Lokhande	06.03.1984	01.07.2018	30.06.2019
		Madhukar Kalu Mahajan	02.08.1977	01.07.2014	30.06.2015
		Vinod Pushottam Kulkarni	04.12.1976	01.07.2014	30.06.2015
13.	11550/2021	Asaram Nivruttirao Adhapure	07.07.1981	01.07.2012	30.06.2013
		Sitaram Sainaji Nawle	30.09.1974	01.07.2011	30.06.2012
		Dadarao Eknath Gahire	16.02.1981	01.07.2018	30.06.2019
14.	13560/2019	Digambar Munjaji Bhaske	03.01.1986	01.07.2018	30.06.2019
		Ankush Rambhau Fund	17.08.1981	01.07.2017	30.06.2018
		Sudam Govindrao Satwadhar	20.11.1987	01.07.2018	30.06.2019
		Sudam Ashroba Giram	13.08.1981	01.07.2016	30.06.2017
		Shitaram Munjaji Shendre	08.07.1998	01.07.2016	30.06.2017
15.	11669/2019	Rajendra Guruppa Hulsure	08.07.1982	01.07.2017	30.06.2018
16.	15162/2019	Manik Lingram Haridas	14.08.1979	01.07.2011	30.06.2012
17.	7483/2021	Shriram Devidas Joshi	13.07.1983	01.07.2016	30.06.2017
18.	7508/2021	Prakash	02.08.1979	01.07.2015	30.06.2016

		Dhondu Wani			
19.	7509/2021	Suresh Baliram Golahit	01.08.1985	01.07.2018	30.06.2019
20.	9996/2021	Deepak Dodhu Narkhede	20.07.1992	01.07.2020	30.06.2021
21.	9998/2021	Rajendra Bhatu Patil	01.08.1987	01.07.2015	30.06.2016
22.	8435/2021	Baban Raghunath Adik	25.08.1980	01.07.2015	30.06.2016
23.	8461/2021	Karbhari Baburao Vidhate	16.07.1977	01.07.2009	30.06.2010
24.	8462/2021	Smt.Aparna Nilkanth Chandras	01.01.1992	01.06.2018	30.06.2019
25.	8488/2021	Suresh Rajaram Varade	14.09.1997	01.07.2017	30.06.2018
26.	8494/2021	Ashok Shripat Patel	25.08.1981	01.07.2016	30.06.2017
27.	13205/2019	Narendra Pandharinath Borse	23.04.1980	01.07.2015	30.06.2016

5. It is undisputed that the recommendations under the 6th Pay Commission altered the date on which the annual increment would have become payable, which was normally payable after putting in 12 months in continuous service preceding the date of reference and fixed the 1st day of July of each year. Prior thereto, the employees like these petitioners used to earn their annual increment by calculating 12 calendar months from the dates of their appointment for each succeeding year. As such, the reference period of 12 months for calculating the annual increment, was a period of 12 calendar months in each succeeding year from the date of appointment. For example, if person ‘A’ was appointed on 1st March, 2000, he would complete 12 months in employment on 28th

February 2001. He, therefore, earned his annual increment on 1st March, 2001 for the work done in 12 calendar months preceding 1st March. This was the pattern of earning annual increments after 12 months in employment in each year.

6. By the recommendations of the 6th Pay Commission, uniformity was decided to be introduced and 1st of July of each year was considered to be the date on which the annual increment, for having worked for 12 calendar months preceding 1st July, would be payable. Consequentially, for the work performed in 12 calendar months till 30th June, the said employee would earn the annual increment on 1st July of the said year. It is in these peculiar circumstances that, these petitioners are before us, after having superannuated on 30th June of their respective year set out in the chart For example, if person ‘A’ had retired on 30th June, 2021, he would have earned the annual increment which became payable to him on 01.07.2021. As he superannuated on 30th June, 2021, he was not granted the notional benefit of the increment which would have been payable to him on 01.07.2021 for the work performed from 01.07.2020 to 30.06.2021.

7. It is in this circumstances, that we found that the judgment delivered by the learned Division Bench of the Madras High Court in **P.Ayyamperumal** (supra) was an appropriate view. We delivered an order on 24th June, 2021 in Prakash Tulshiram Chaudhari (supra). The judgment of the Madras High Court in **P.Ayyamperumal** (supra) was challenged by the Union of India and others in Special Leave Petition (Civil) Diary No.22283/2018. By order dated 23.07.2018, the Hon’ble Supreme Court declined to interfere with the impugned judgment of the Madras High Court and dismissed the Special Leave Petition. Similarly, to the challenge to our order dated 24th June, 2021 in Prakash Tulshiram Chaudhari (supra), the Hon’ble Supreme Court dismissed the Special Leave Petition on 12.01.2022.

> 8. In view of the above, these Writ Petitions are allowed.''

5. Considering that the present petitioners are identically placed, these petitions are allowed, taking into account, the dates of their superannuation as being 30th June, of the respective years. We hold that the increment payable to them on 1st July of the concerned year, would be reckoned with, for notionally calculating their pensionary benefits, which would have been payable to them from 1st July, but for their superannuation on 30th of June. This notional inclusion of the annual increment would be considered for calculating their pension, gratuity, earned leave, commutation benefits, etc.

6. The learned Advocate for the petitioners has prayed for entire arrears from their dates of superannuation. The chart referred to below paragraph 3 indicates that some of the petitioners have superannuated in 2016. Some have superannuated in between 2017 and 2022. It is conceded that none of these petitioners have prayed for arrears of such addition of annual increments from the dates of their superannuation, in this petition.

7. 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 2022.

08. Considering these aspects, we are of the view that the arrears of such benefits as granted by us 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 the filing of the Writ Petitions or as per actuals, whichever may be less. We direct the payment of such arrears accordingly and expect such payment to be made to these petitioners, on or before 31.01.2023.

(SANJAY A. DESHMUKH)
JUDGE

(RAVINDRA V. GHUGE,)
JUDGE

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