

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

79 WRIT PETITION NO.12569 OF 2022

RAOSAHEB GULABRAO HAVALE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE SECRETARY AND OTHERS

...

Advocate for Petitioner: Ms. Vinaya Muley Dharurkar, h/f Mr. V. V. Dharurkar.

AGP for Respondent No.1 : Mr. S. G. Sangle.

Advocate for Respondent Nos.2 to 4 : Mr. R. J. Godbole.

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CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 14th December, 2022.

Per Court :

1. The petitioner has put forth prayer clauses 'B', 'C' and 'D' as under:-

"B] By issuing a writ of Mandamus or any other writ of like nature this Hon'ble Court may kindly be pleased to quash and set aside the order dated 19.10.2022 passed by the R.4 **[Exh. D]** thereby rejecting the grant of Annual Pay increment to the Petitioner.

C] By issuing a writ of mandamus or any other writ of like nature this Hon'ble Court may be pleased to hold and declare that the Petitioner is entitled to one notional increment for the service rendered by him towards the last preceding calendar year from the date of his retirement i.e., 1st July 2022 and the R.1 to 4 may

kindly be directed to accordingly pay to the Petitioner his last Annual increment.

- D] By issuing a writ of mandamus or by passing an appropriate order or direction the Respondent No.3 and 4 may kindly be directed to send a revised pension proposal of the Petitioner by recalculating Petitioner's last drawn pay upon the grant of one notional increment and the Respondent No. 1 & 2 may further be directed to take necessary steps to revise and pay to the Petitioner the modified monthly pension."

2. The petitioner superannuated on 30.06.2020. He had earned his last annual increment for the year 01.07.2019 till 30.06.2020, which was payable on 01.07.2020. He places reliance upon the judgment dated 15.09.2017 delivered by the Madras High Court in *P. Ayyamperumal Vs. the Registrar, Central Administrative Tribunal and others* and the exhaustive judgment delivered by this Court dated 04.05.2022 in Writ Petition No.14632/2021 filed by *Balaji Manikrao Biradar Vs. The State of Maharashtra and others* and group of petitions.

3. The learned counsel appearing for the respective sides submit that the petitioner is squarely covered by the conclusions of this Court set out in paragraphs 6 to 12 of the judgment delivered in *Balaji Biradar* (supra).

4. In view of the above, this Writ Petition is partly allowed as under :-

- (a) The orders dated 21.01.2021 and 14.12.2021 passed by respondent Nos.3 and 2, respectively, are quashed and set aside.
- (b) The petitioner would be entitled for the notional benefits of the annual increment, which would have been payable to him on account of completing one year from 01.07.2019 to 30.06.2020.
- (c) Consequentially, the petitioner would be entitled for monetary benefits/difference of pensionary benefits as per actuals w.e.f. 01.07.2020.
- (d) As such, the pensionary benefits of the petitioner will have to be recalculated by including the annual increment for the year 2019-2020 and such recalculated pensionary benefits shall become payable to him. The arrears thereof shall be calculated and shall be paid to the petitioner as expeditiously as possible and preferably on or before 28.02.2023.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]

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