

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.12491 OF 2022

**SADAHBAU KARBHARI MUNDE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

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Mr S. S. Jadhavar, Advocate for petitioner;
Mr S. G. Karlekar, A.G.P. for respondent No.1
Mr P. D. Suryawanshi, Advocate for respondent Nos.2 to 4

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

DATE : 13th December, 2022

PER COURT:

1. The petitioner has put forth prayer clauses (B) and (C), which read as under :-

“B) By issuing writ of mandamus or any other appropriate writ order or direction, the respondents may kindly be directed to grant annual increment to the petitioner which was due on 01.07.2020 alongwith all consequential benefits with further direction to the respondents to revise pension of the petitioner accordingly.

C) Pending hearing and final disposal of this Writ Petition, the respondents may kindly be directed to grant annual increment to the petitioner which was due on 01.07.2020 alongwith all consequential benefits with further direction to the respondents to revise pension of the petitioner accordingly.”

(2)

2. Issue notice to the respondents, returnable forthwith. The learned A.G.P. waives service of notice on behalf of respondent No.1. Mr Suryawanshi, the learned Advocate waives service of notice on behalf of respondent Nos.2 to 4.

3. The issue that has been raised in this petition by the petitioner is, as regards the notional addition of an annual increment, while computing his pension and pensionary benefits. Such increment became due and payable on the last day before his superannuation, on completion of one year service. The petitioner has superannuated on 30th June, 2020, as he was due for superannuation. The date of payment of the last annual increment to the petitioner, is 01/07/2019.

4. The issue raised is no longer res integra, having been concluded by the Madras High Court vide judgment dated 15.09.2017, in WP No.15732/2017, filed by **P.Ayyamperumal Vs. The Registrar, Central Administrative Tribunal and others,** which judgment has been sustained by the Hon'ble Supreme Court vide order dated 23.07.2018, in Special Leave Petition (Civil) Diary No.22283/2018. Even this Court has passed several orders granting such benefits, which have been sustained by the Hon'ble Supreme Court.

(3)

5. In view of the above, this petition is partly allowed.
6. The petitioner is entitled to the notional addition of the last yearly increment for the purpose of calculating his pension, gratuity, earned leave, commutation benefits etc. Insofar as arrears of the benefits are concerned, the petitioner would be entitled for the same for a period of three years preceding the date of filing of this petition or as per actuals, whichever is less. Such arrears should be calculated and be paid to the petitioner, on or before 28/02/2023.
7. Needless to state, by including the last earned increment, the appropriate authorities shall recalculate the pensionary benefits of the petitioner and accordingly, pay the pension as per the recalculated amounts along with the arrears.

(SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)

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