

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

WRIT PETITION NO. 14828 OF 2019

1. Amol s/o Narsing Satpute
2. Siddhanath Dattatraya Kachare
3. Kakasaheb Arjun Kumatkar
4. Aparna w/o Sadashiv Rajmane
5. Laxmikant s/o Narayan Deshmukh
6. Vikas Genu Bagade
7. Sharad s/o Bhanudas Thorat
8. Mukundraj s/o Dashrath Satpute
9. Anita w/o Vitthal Pawar
10. Pramod s/o Shivdas Pimpre
11. Manjusha w/o Bapurao Sole
12. Lahu s/o vikram Borate
13. Balu s/o Gangaram Jarande
14. Kirankumar s/o Govind Gore
15. Jalindar s/o Machindra Raut
16. Rajendra s/o Dashrath Kumatkar
17. Manda w/o Yashwant Pagare ... **Petitioners**

VERSUS

1. The State of Maharashtra
Through Secretary
General Administration Department
Mantralaya, Mumbai 32
2. The Chief Executive Officer,
Zilla Parishad, Ahmednagar
3. The Education Officer (Primary), ... **Respondents**
Zilla Parishad, Ahmednagar

Mr. Nanabhau R. Thorat, Advocate for the petitioner,
Mr. S. B. Yawalkar, AGP for respondent No.1,
Mr. Avinash D. Aghav, Advocate for respondent Nos. 2 and 3

**CORAM : SMT. VIBHA KANKANWADI &
Y. G. KHOBRAGADE, JJ.**

DATE : 10th OCTOBER 2022

JUDGMENT (Per Y. G. Khobragade, J.):

1. Rule. Rule made returnable forthwith. With the consent of both the sides, the matter is heard finally at the stage of admission.

2. We have heard Mr. Thorat, learned counsel for the petitioner, Mr. S.B.Yawalkar, learned AGP for respondent No.1 State and Mr. Avinash D. Aghav, the learned counsel appearing for respondent Nos. 2 and 3 at length.

3. By the present petition under Article 226 of the Constitution of India, the petitioners prayed for issuance of directions against respondent Nos. 2 and 3 for grant of additional increments on account of performing 'most excellent/outstanding work' by them in view of Government Resolution dated 31.10.1989.

4. According to the petitioners they are working as teachers in various Schools running under the control of Zilla Parishad, Ahmednagar and from the date of their joining duties, they are performing excellent and outstanding work, so also, their service tenure is unblemished. On 31.10.1989, respondent No.1-State Government issued Government Resolution and framed guidelines to grant additional increments for the excellent work performed by the primary

teachers of Zilla Parishadas. Since their annual confidential reports are excellent and outstanding, therefore, in view of the Government Resolution dated 31.10.1989, the petitioners are entitled for additional increments. Some of the petitioners have performed most excellent/outstanding work for more than 5 years, therefore, they are eligible for two additional increments and some of the petitioners done most excellent work for more than three years and hence they are eligible for one additional increment. However, no such additional increments are granted to them.

5. The petitioners further advert that, respondent No.1 State Government has taken a decision and decided to extend benefit of 6th Pay Commission and established Pay Revision Committee under the control of P. M.A.Hakim. Accordingly, the Pay Revision Committee framed a memorandum for fixing the pay scale of the government servants, wherein recommendation is made for grant of additional increment of 4% of salary for excellent work. The State Government issued Resolution dated 27.02.2009 and decided to fix the pay scale of the teachers as per the recommendation of the Hakim Committee while implementing the sixth pay scale, wherein recommendations were made for fixation of pay scale of the teachers. However, the recommendation made by the Hakim Committee in Para No. 3.24 about grant of 4% additional increment has not been accepted by the State Government

and no provision for grant of additional one or two increments while fixing of pay scale as per the 6th pay commission made and the issue about grant of 1% more salary to the teachers was under consideration of respondent no.1 as per Circular dated 03.07.2009. According to the petitioners, they performed excellent work but their pay scale was fixed by excluding additional increments for the period from 01.10.2006, 01.10.2007 and 01.10.2008. No positive decision was taken by respondent No. 1 as per Circular dated 03.07.2009 for grant of additional increments for excellent work. On 24.08.2017, the State Government issued Government resolution and decided not to grant benefits of additional increments to the government servants from 2006 to 2015 in view of recommendations of Para 3.24 of the Pay Revision Committee as the period of 10 years of 6th pay commission w.e.f. 01.01.2006 to 01.10.2015 already expired. Therefore the action on the part of respondent No.1 is discriminatory and violative of principles of equity and they are entitled for additional increments as per Government resolution dated 31.10.1989.

6. Respondent Nos. 2 and 3 have filed their reply affidavit and contended that, the petitioners have challenged the Government Resolution dated 24.08.2017, however, on 20.01.2020, the State Government issued clarification and made applicable the Government Resolution dated 24.08.2017 to the employees of the Zilla Parishadas.

Therefore, in view of Government resolution dated 24.08.2017, the petitioners are not entitled for grant of additional increments. Hence prayed for dismissal of the petition.

7. The learned counsel appearing for the petitioners submitted that the petitioners 1 to 17 are working as Assistant teachers in various schools of Zilla Parishads in Ahmednagar District and the respondent No.2 maintained the Annual Confidential Report of the petitioners, wherein the petitioners performed most excellent/ outstanding work and as per the Government Resolution dated 31.10.1989, therefore, the petitioners are entitled for additional/ advance increments. However, the State Government issued a Govt. Resolution on 24.08.2017 and decided not to grant benefits of additional increments to the Government servants for the period from 2006 to 2015 in view of recommendations of para 3.24 of the pay scale committee as period of 10 years of the sixth pay commission from 01.01.2006 to 01.10.2015 already expired and issue about grant of monetary benefits of additional increments time barred. Therefore, action on the part of respondent No.1 while denying additional increments for excellent performance is illegal and bad in law.

8. The learned counsel for the petitioners further submitted that other similarly situated persons like petitioners had approached this Court by filing Writ Petition No. 12502 of 2019 and on 05.10.2019

this Court passed an order wherein it is observed that, in case the petitioners are awardees of excellent work prior to 24.08.2017, then the authorities of the Zilla Parishad, after confirming that the petitioners are issued certificates of excellent work, shall consider the case of the petitioners for additional increments as laid down under the Government resolution governing grant of additional increments to the excellent work awardee teachers and the same shall be decided on its own merits within a period of six months from the date of the order. While passing the order dated 15.10.2019, this Court further observed that Government Resolution dated 24.08.2017 does not have retrospective operation and will not be applicable to the teachers who have been awarded certificates of excellent work prior to the said Government resolution. Therefore, the learned counsel for the petitioners submitted that the petitioners are entitled for additional increments as per the Government Resolution dated 31.10.1989.

9. The learned counsel for the petitioners further placed reliance on order dated 14.09.2022 passed by this Court in Writ Petition No. 9411 of 2021 and connected matters (Navnath Ramji Dhumale Vs. The State of Maharashtra & Ors.) wherein it has been observed that the Scheme of grant of advance increments was discontinued for the first time by the Government Resolution dated 24.08.2017 and said decision would operate only prospectively. Therefore, eligibility of each of the

petitioners may be considered by the respondents for grant of additional increments as per the provisions of Circular dated 14.12.2006 but shall not be rejected only on the ground of issuance of Government resolution dated 24.08.2017.

10. In the backdrop of grievance of the petitioners, it certainly reveals that as per Government Resolution dated 31.10.1989, Class-3 and Class-4 employees of Zilla Parishads were entitled for the additional one increment, if their annual confidential reports are recorded most excellent/outstanding for three years and two additional increments if their annual confidential reports are most excellent/outstanding for the period of five years. The petitioners produced Annexure-B about their annual confidential reports for the period from 01.01.2013 to 31.03.2018, wherein the reporting officer recorded performance of the petitioners 'outstanding' and the said fact is not disputed by the respondents.

11. On the face of record, it prima facie appears that the respondent No.1 decided to grant benefits of the sixth pay commission to the Government servants including teachers working with Zilla Parishads and established Pay Revision Committee in 2008 under the head of P. M. A. Hakim. The Pay Revision Committee recommended for grant of additional increments of 4% of salary for the excellent work performed by the Government servants. Under Government Resolution

dated 27.02.2009 and Circular dated 03.07.2009, the provision of grant of one or two additional increments made applicable while fixing the pay scale as per recommendations of para No. 3.24 of the report of the Pay Revision Committee not been discontinued. However, on 24.08.2017, the State Government issued Government Resolution and decided not to grant benefits of additional increments to the Government servants for the period from 2006 to 2015 in view of recommendations in Para 3.24 of the Pay Revision Committee report as the period of 10 years of the 6th Pay Commission from 01.01.2006 to 01.10.2015 had already been expired.

12. It is submitted that, the Government Resolution dated 24.08.2017 issued by respondent No.1 certainly operates prospectively and would not have retrospective effect in regard to additional increments prior to the issuance of the Government Resolution and no specific instructions are being issued prior to 24.08.2017 for discontinuation of scheme of granting advance increments. Nonetheless, in order dated 14.09.2022 passed by this Court in Writ Petition No. 9411 of 2021 and connected matters, the Scheme of grant of advance increments, Government Resolution dated 24.08.2017, Circular dated 03.07.2009 and Hakim Committee's recommendations already been considered and held that, the employees become eligible for grant of advance increments after 27.02.2009. Under this

circumstance, discontinuance of scheme of advance increments by the Government under Government Resolution dated 24.08.2017 has no retrospective effect. In this circumstance, the petitioners, if they are eligible for advance increments in pursuance of Government Resolution dated 31.10.1989, would certainly entitle for additional increments and their claim may be considered by the respondents for grant of advance increments till the Government Resolution dated 24.08.2017 came into force.

13. In view of above discussion, the petitioners are granted liberty to approach the respondent No.2 with their grievance within a period of four weeks from today and after submitting such representations, the respondent No.2 is hereby directed to decide the said representations within a period of 12 weeks from the date of submission of the representations.

14. In case the petitioners are found eligible for grant of benefits of advance increments, the consequential benefits may be awarded to the respective petitioners within a period of eight weeks there from.

15. Accordingly the petition is hereby disposed of. No order as to costs.

(Y. G. KHOBRAGADE, J.)

(SMT. VIBHA KANKANWADI, J.)

JPChavan