

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

79 WRIT PETITION NO.432 OF 2023

SARAFARAZ KHAN SAMEEIOULA KHAN PATHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS CHIEF
SECRETARY AND OTHERS

Advocate for Petitioners : Mr. Vivek U. Rathod
AGP for Respondents: Mr. S.G. Karlekar

**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 17th JANUARY, 2023.**

PER COURT :-

1. In this petition, 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 on the last day before their superannuation, on completion of their last year service.

2. The petitioners have superannuated on the 30th day of June of a particular year, 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 their appointments,
Date of last increment & Date of superannuation of petitioners

Sr. No	Name of the Petitioners	Date of Appointment	Date of Last annual increment	Date of Superannuation /Retirement
1.	Sarafaraj Khan Sameeioula Khan Pathan	23.02.1987	01.07.2020	30.06.2021
2.	Subhash Pandurang Solanke	22.06.1986	01.07.2020	30.06.2021
3	Ramesh Laxmanrao Surduse	01.08.1986	01.07.2021	30.06.2022
4	Shaikh Jammiroddin Mohd. Hafijoddin	09.11.1981	01.07.2015	30.06.2016
5	Mukind Shivaji Ingole	09.01.1981	01.07.2016	30.06.2017

3. 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 of 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.

4. In view of the above, this petition is partly allowed. The petitioners are entitled to the notional addition of the last yearly

increment for the purpose of calculating their pension, gratuity, earned leave, commutation benefits etc. In so far as arrears of the benefits are concerned, the petitioners 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 petitioners, on or before **30.04.2023**.

5. Needless to state, by including the last earned increment, the appropriate authorities shall recalculate the pensionary benefits of the petitioners 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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