

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

45 WRIT PETITION NO.1288 OF 2023

**DEVIDAS TUKARAM SHINDE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...

**AND
67 WRIT PETITION NO.1318 OF 2023**

**VITTHAL MAROTI KAMBLE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...

**Advocate for the Petitioners : Shri S.G. Rudrawar
AGPs for Respondents 1 and 3/State : Shri V.M. Kagne and Shri
S.G. Sangle**

...

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

DATE :- 06th February, 2023

Per Court :-

1. In 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 on the last day

before their superannuation, on completion of one year service. The petitioners have superannuated on the 30th day of June of a particular year, as they were due for superannuation.

2. 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.

3. The learned AGPs strenuously submit that this Court may consider the delay and laches on the part of the petitioners in approaching this Court. They further submit that no litigant can take advantage of his own wrong. Delay and laches ought not to benefit the petitioners by grant of arrears.

4. We find that several litigants, as like the petitioners, have started approaching this Court after the judgment of the Madras High Court in ***P. Ayyamperumal*** (supra) and subsequent orders passed by the Aurangabad Bench, the Principal Seat and

the Nagpur Bench. Since the judgment of the Madras High Court led to the Special Leave Petition before the Honourable Supreme Court, which settled the law on this point by sustaining the judgment of the Madras High Court, this Court has also delivered several judgments, which have also been sustained by the Honourable Supreme Court. To balance the equities, this Court has granted arrears only for 3 years from the date of the filing of the petition or as per actuals, whichever is less.

5. In view of the above, **these Writ Petitions are partly allowed.**

6. 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 are concerned, the petitioners would be entitled for arrears for the period of three years preceding the date of the filing of these petitions or as per actuals, whichever is less. Such arrears should be calculated and be paid to the petitioners, on or before 15.04.2023.

7. 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.

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