

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

14 WRIT PETITION NO.1499 OF 2023

**SHAIKH BASHIR SHAIKH HAMID AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS**

**AND
26 WRIT PETITION NO.1516 OF 2023**

**VALJINATH VITHALRAO GAJRE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS**

**AND
31 WRIT PETITION NO.1522 OF 2023**

**TILOTTAMA KASHINATH KOLI
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS**

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Advocate for Petitioners : Mr. Sabnis Ameya N
AGP for Respondents/State : S/Shri P.S. Patil and S.G. Sangle

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

DATE : 13th February, 2023

PC. :-

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.

2. The petitioners have superannuated on the 30th day of June of the 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 the chart hereunder :-

Sr. No.	Writ Petition Nos.	Name	Date of retirement
1	1499 / 2023	Shaikh Bashir Shaikh Hamid	30.06.2011
2	1499 / 2023	Suresh Ragho Pawar	30.06.2021
3	1499 / 2023	Sagar Shankar Vispute	30.06.2019
4	1499 / 2023	Sunil Pitambar Chaudhari	30.06.2021
5	1499 / 2023	Dilip Chavdas Bhole	30.06.2016
6	1499 / 2023	Gulabrao Jagannath Shinde	30.06.2018
7	1499 / 2023	Subhash Vikram Patil	30.06.2022
8	1499 / 2023	Bhimrao Sahadu Borse	30.06.2018
9	1499 / 2023	Surekhadevi Pandurang Wagh	30.06.2020
10	1499 / 2023	Kishor Madhukar Chaudhuri	30.06.2020
11	1516/ 2023	Vaijinath Vithalrao Gajre	30.06.2020
12	1516/ 2023	Madan Keshavrao Patil	30.06.2020
13	1522 / 2023	Tilottama Kashinath Koli	30.06.2015

3. The issue raised in these petitions is no longer *res-integra* in the light of the judgment delivered by the Madras High Court on 15.09.2017 in Writ Petition No.15732/2017 filed by ***P. Ayyamperumal Vs. The Registrar,***

Central Administrative Tribunal and others, which has been sustained by the Honourable Supreme Court. This Court (Coram : Ravindra V. Ghuge and Anil L. Pansare, JJ.) has also delivered the judgment dated 23.06.2022 in Writ Petition No.6256/2022 filed by *Changdeo Genuji Dudhat and others vs. State of Maharashtra and others* and connected petitions. We have corrected paragraph 10 of our judgment dated 23.06.2022, vide order dated 13.07.2022.

4. 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.

5. 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.

6. In view of the above, the case of the petitioners is squarely covered by the said order dated 23.06.2022 and they stand entitled for the benefits as ordered in paragraph 9 and corrected paragraph 10 of the order dated 23.06.2022 in ***Changdeo Genuji Dudhat (supra)***, which read as under :-

“9. *It is quite apparent that the judgment delivered by the Madras High Court in P.Ayyamperumal (supra), became a cause for these petitioners to approach this Court. None of them had challenged the non-inclusion of the annual increment in their pensionary benefits for calculation purposes, when they superannuated on 30th June of a particular year. As the judgment delivered in P. Ayyamperumal (supra) became known to all, that these petitioners have approached this Court. Some of the petitioners have superannuated in between 2016 and 2021.*

10. *Considering these aspects, we are of the view that the arrears of such benefits as granted by us in paragraph 9 hereinabove, could be restricted for a reasonable period. As such, these petitioners would be entitled for the arrears of such benefits for a period of three years preceding the dates of their filing of the writ petitions or as per actuals, whichever is less. We direct the payment of such arrears accordingly and expect such payment to be made to these petitioners, on or before 30.08.2022.”*

7. As such, these petitions are partly allowed.

8. The respondents would grant benefits to the petitioners as directed in paragraphs 9 and 10 (reproduced above) of ***Changdeo Genuji Dudhat (supra)***, to be paid within 3 months from today.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]