

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

51 WRIT PETITION NO.1636 OF 2023

SUHAS DIGAMBERRAO PESHWE
VERSUS
THE STATE OF MAHARASHTRA THROUGH
HIGHER EDUCATION DEPARTMENT AND OTHERS

...
Advocate for Petitioner : Ghorpade (Nawale) Jayashree T.
AGP for Respondents/State : Mr. V.M. Kagne
...

**CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**
DATE : 13th February, 2023

PC. :-

1. In this petition, the issue that has been raised 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 of service.

2. The petitioner has superannuated on the 30th day of June of the particular year, as he was due for superannuation. For the sake of clarity, the name of the petitioner and his date of superannuation are mentioned in the chart hereunder:-

Sr. No.	Name	Date of retirement
1	Suhas Digamberrao Peshwe	30.06.2016

3. The issue raised in this petition 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 AGP strenuously submits that this Court may consider the delay and laches on the part of the petitioner in approaching this Court. He further submits that no litigant can take advantage of his own wrong. Delay and laches ought not to benefit the petitioner by grant of arrears.

5. We find that the several litigants, as like the petitioner has 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 petitioner is squarely covered by the said order dated 23.06.2022 and he stands 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, this petition is disposed off.

8. The respondents would grant the benefits to the petitioner as directed in paragraphs 9 and 10 (reproduced above) of ***Changdeo Genuji Dudhat (supra)***, on or before 30.04.2023.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]