

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

907 WRIT PETITION NO.1572 OF 2023

MOHAMMAD YUNUS SHARIF SHAIKH
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Abhishek C. Deshpande.

AGP for Respondent/State: Mr. S. G. Karlekar.

...

AND

908 WRIT PETITION NO.1573 OF 2023

KALEEMUDDIN AZIZUDDIN
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Abhishek C. Deshpande.

AGP for Respondent/State: Mr. S. G. Sangle.

...

AND

909 WRIT PETITION NO.1582 OF 2023

SHAIKH ZAKIRUDDIN ISHAQUDDIN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...

Advocate for Petitioners : Mr. Abhishek C. Deshpande.

AGP for Respondent/State: Mr. V. M. Kagne.

...

AND

910 WRIT PETITION NO.1583 OF 2023

DINKAR MAHARU MAHAJAN
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Sandeep B. Sontakke.

AGP for Respondent/State: Mr. S. K. Tambe.

...

AND

911 WRIT PETITION NO.1584 OF 2023

PATHAN AHMAD KHAN MIYAN KHAN AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...

Advocate for Petitioners : Mr. Abhishek C. Deshpande.

AGP for Respondent/State: Mr. S. G. Karlekar.

...

AND

912 WRIT PETITION NO.1585 OF 2023

MAHADU SANDU BANGALE

VERSUS

THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioners : Mr. Sandeep B. Sontakke.

AGP for Respondent/State: Mr. S. G. Sangle.

...

AND

913 WRIT PETITION NO.1586 OF 2023

ASHOK FULCHAND MORE AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioners : Mr. Sandeep B. Sontakke.

AGP for Respondent/State: Mr. V. M. Kagne.

...

AND

914 WRIT PETITION NO.1587 OF 2023

ISMAIL SHAIKH S/O SHAIKH BURHAN AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioners : Mr. Sandeep B. Sontakke.

AGP for Respondent/State: Mr. S. K. Tambe.

...

AND

915 WRIT PETITION NO.1588 OF 2023

JAGDISHCHANDRA S/O GULABCHAND VARMA
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioners : Mr. Sandeep B. Sontakke.

AGP for Respondent/State: Mr. S. G. Karlekar.

...

AND

916 WRIT PETITION NO.1589 OF 2023

SHASHIKMUAR RAMRAO DESHPANDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioners : Mr. Sandeep B. Sontakke.

AGP for Respondent/State: Mr. S. G. Sangle.

...

AND

917 WRIT PETITION NO.1592 OF 2023

DR. KARUNA BHIVAJI GHOBLE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...
 Advocate for Petitioner : Mr. Abhishek C. Deshpande.
 AGP for Respondent/State: Mr. V. M. Kagne.
 ...

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

DATE : 09th 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.
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 No.	Name	Date of retirement
1	1572 / 2023	Mohammad Yunus Sharif Shaikh	30.06.2019
2	1573 / 2023	Kaleemuddin Azizuddin	30.06.2017
3	1582 / 2023	Shaikh Zakiruddin Ishaquddin	30.06.2021
4	1582 / 2023	Siddiqui Altaf Mohiuddin Siddiqui Md. Ghousuddin	30.06.2022
5	1582 / 2023	Anees Jahan Abdul Wahab	30.06.2021
6	1583 / 2023	Dinkar Maharu Mahajan	30.06.2022

Sr. No.	Writ Petition No.	Name	Date of retirement
7	1584 / 2023	Pathan Ahmad Khan Miyan Khan	30.06.2019
8	1584 / 2023	Mohammad Ashfaque Shaikh Rehman	30.06.2022
9	1584 / 2023	Shaikh Abdul Gaffar Mohammad Subhan	30.06.2022
10	1585 / 2023	Mahadu Sandu Bangale	30.06.2011
11	1586 / 2023	Ashok Fulchand More	30.06.2019
12	1586 / 2023	Abdul Salim Abdul Raheman Shaikh	30.06.2021
13	1587 / 2023	Ismail Shaikh S/o Shaikh Burhan	30.06.2013
14	1587 / 2023	Padmakar S/o Rangrao Kulkarni	30.06.2020
15	1588 / 2023	Jagdishchandra S/o Gulabchand Varma	30.06.2010
16	1589 / 2023	Shashikumar Ramrao Deshpande	30.06.2011
17	1589 / 2023	Rangnath S/o Dnyanoba Ghatul	30.06.2016
18	1589 / 2023	Ansari Abdul Naeem Abdul Kareem	30.06.2013
19	1589 / 2023	Balasaheb S/o Shriram Shahane	30.06.2013
20	1589 / 2023	Mohan S/o Balvantaro Kulkarni	30.06.2012
21	1592 / 2023	Dr. Karuna Bhivaji Ghoble	30.06.2022

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 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 the 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.]