

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

WRIT PETITION NO.1785 OF 2023

**NARHARI RAJARAM THORAT
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS**

WITH

WRIT PETITION NO. 1789 OF 2023

**SARJERAO S/O BHAGWANRAO PAWAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS**

WITH

WRIT PETITION NO. 1795 OF 2023

**KALYAN S/O RAMBHAU TOPE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS**

.....

Advocate for Petitioners : Mr. Uttam L. Telgaonkar
AGP for Respondents-State : Mr. S. K. Tambe
Advocate for Respondent No.3 in WP/1789/2023 : Mr. A. B. Kadethankar

.....

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

DATED : 01st MARCH, 2023

PER COURT :

1. Leave to add prayer clause. Addition be carried out forthwith.
2. These Petitioners are identically situated. Narhari Rajaram Thorat

superannuated on 30/06/2021. Sarjerao Bhagwanrao Pawar superannuated on 30/06/2018 and Kalyan Rambhau Tope superannuated on 30/06/2022.

3. These Petitioners are squarely covered by the view taken by this Court [Coram : Ravindra V. Ghuge & Avinash G. Gharote, JJ.] vide judgment dated 24/06/2021 in Writ Petition No. 6396 of 2020 filed by ***Prakash Tulshiram Chaudhari Vs. State of Maharashtra and others.*** This order was assailed by the State of Maharashtra before the Hon'ble Supreme Court of India in Special Leave to Appeal (C) No. 206 of 2022, by order dated 12/01/2022, the Hon'ble Supreme Court has dismissed the S.L.P.

4. In view of the above, these Writ Petitions are allowed.

5. Considering the dates of superannuation of these Petitioners as being 30th June of the respective years, we hold that the increment payable to them on 1st July of the concerned year, after 2006, would be reckoned with for notionally calculating the pensionary benefits, which would have been payable to them from 1st July, but for their superannuation on 30th of June. This notional inclusion of the annual increment would be considered for calculating their pension, gratuity, earned leave, commutation benefits, etc.

6. The learned Advocates for the Petitioners have prayed for entire arrears from their dates of superannuation.

7. It is quite apparent that the judgment delivered by the Division Bench of the Madras High Court in *P. Ayyamperumal Vs. The Registrar, Central Administrative Tribunal and others*, in the order dated 24/06/2021, 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.

8. Considering these aspects, we are of the view that the arrears of such benefits as granted by us in paragraph 5 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 Writ Petitions or as per actuals, which ever is less. We direct the payment of such arrears accordingly and expect such payment to be made to these Petitioners within a period of three months.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

Tandale/-