

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

937 WRIT PETITION NO.13964 OF 2023

INDU KASHINATH CHAVAN
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Ms. Megha Mali h/f. Mathpati Shivkumar K
AGP for Respondents/State : Mr. A.V. Deshmukh
Advocate for R/6 to 8 : Mr. A.A. Jagatkar
...

**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.**
DATE : 4th November, 2023

PC. :-

1. The Petitioner is a District Awardee Teacher, who has been granted such award prior to 04.09.2018.

2. The Petitioner has put-forth prayer clauses B and C as under :-

"B) The Resp. No. 6 to 8 (Zilla Parishad Aurangabad) may kindly be direct to give/release or restore the benefit of one additional increment as per earlier order dated 16.03.2009 passed by the resp. No. 6 w.e.f. 05.09.2008 as she is declared as District Awardee Teacher prior to 04.09.2018 as per circular dated 12.12.2000 issued by the Resp. No. 3 to the petitioner forthwith by issuing the writ of mandamus or any other appropriate writ, order, direction as the case may be.

C) The respondent authority may kindly be direct to grant the said benefits of one additional increment along with service benefits all consequential including revision of pensionary benefits

w.e.f. 05.09.2008 as per circular dated 12.12.2000 issued by the Resp. No. 3 forthwith by issuing the writ of mandamus or any other appropriate writ order, direction as the case may be."

3. The learned Advocate for the Petitioner points out that in identical set of circumstances, the Petitioners were granted the benefits ~~benefits~~, which were subsequently taken away by the State Government vide the Government Resolution dated 04.09.2018. The aggrieved Petitioners approached the High Court which restored their benefits. The Nashik Zilla Parishad approached the Honourable Supreme Court in Petition for Special Leave to Appeal (Civil) No. 19730/2021. By order dated 13.04.2022, the SLP was dismissed by concluding that the district awardees were entitled to the additional increment if granted prior to 04.09.2018 and no error has been committed by the High Court in directing the benefit of additional increment. The Honourable Supreme Court was in complete agreement with the view taken by the High Court.

4. The issue was considered by the Division Bench of this Court at the Principal Seat in Writ Petition (Stamp) No.3501/2021, filed by **Laxman Pandurang Nikam and others vs. The State of Maharashtra and others** and a group of petitions. It was concluded in paragraphs 2 to 8 as under :-

"2. Heard. The learned counsel for the Petitioners submits that the Petitioners in these Writ Petitions are the District Awardee Teachers prior to 04.09.2018.

3. *For the first time, additional increment was given to the District Awardee Teachers under the Government Resolution dated 12.12.2000. Pursuant thereto, additional increments as per the said Govt. Resolution were given.*

4. *There are other categories of awardee teachers such as State Awardee Teachers, National Awardee Teachers and the award being given for excellent outstanding work. In the present case, we are concerned only with the District Awardee Teachers.*

5. *Upon perusal of various Govt. Resolution placed on record, it does not appear that prior to the Govt. Resolution dated 04.09.2018, there was any Govt. Resolution taking away benefit of the additional increment given to District Awardee Teachers. Of course, now, no District Awardee Teacher would be entitled for the benefit in view of the Govt. Resolution dated 04.09.2018. However, Govt. Resolution dated 04.09.2018 cannot be given retrospective effect.*

6. *Govt. Resolution relied by the learned counsel for Zilla Parishad viz. Govt. Resolution dated 27.02.2009 is general in nature. It only states that the committee formed by the Govt. has made recommendation and the same is to be accepted with certain modifications. Under the Govt. Resolution dated 24.08.2017, Govt. has taken decision that the benefit of advance increment would not be available to those who were granted certificate of excellent work. It is under the Govt. Resolution dated 04.09.2018 now the benefit of additional increment to the District Awardee Teacher can not be given.*

7. *However, all those who were granted certificate of District Awardee Teacher prior to 04.09.2018 cannot be denied the said benefit of additional increment.*

8. *In light of the above, we pass the following order:*

a. *The Respondent / Zilla Parishad after confirming themselves of the Petitioners being District Awardee Teachers and awarded certificate prior to 04.09.2018 shall individually consider the case of the Petitioners for additional increment as is laid down under the Government Resolution dated 12.12.2000. The same shall be considered*

on its own merits expeditiously preferably within a period of six months and the Respondents shall communicate their decision to the Petitioner, in writing.

b. At the request of the learned counsel for the Petitioner in Writ Petition (ST) No.18924/2018, all office objections are dispensed with, except Court Fees.

c. All Writ Petitions stand disposed of accordingly."

5. Identical orders were passed with relation to several other Zilla Parishads, out of which, the Chief Executive Officer, Zilla Parishad, Nashik, had approached the Honourable Supreme Court in Petition for Special Leave to Appeal (Civil) No.19730/2021. Vide order dated 13.04.2022, it was held as under :-

"It is not in dispute that, prior to 04.09.2018, the District Awardees were entitled to get the additional increment. It was only pursuant to the Circular dated 04.09.2018, the District Awardees were not entitled to get the additional increment. Therefore, for the period prior to 04.09.2018, the District Awardees were entitled to get the additional increment and therefore, no error has been committed by the High Court in directing the benefit of additional increment to the District Awardees for the period prior to 04.09.2018.

We are in complete agreement with the view taken by the High Court

The Special Leave Petition stands dismissed.

Pending applications stand disposed of."

6. The learned AGPS submit that Review Petitions have been filed by the Zilla Parishads. This statement is confirmed by the learned advocates representing the respective Zilla Parishads

7. Having considered the order of the Honourable Supreme Court reproduced above, we do not find that the pendency of the Review Petition could be an impediment for considering this petition. The order of the Honourable Supreme Court is a speaking order.

8. In the light of the above, **the Writ Petition is partly allowed** with the direction to the Zilla Parishads/concerned Authority to confirm that the Petitioner is the District Awardee Teacher, who has been awarded such certificate prior to 04.09.2018. After verifying this aspect, they would proceed to grant additional increment as is laid down in the circular dated 12.12.2000 to those teachers, who are District Awardee Teachers. Let such exercise of verification and payment be made, within 90 days.

9. In the event, the Petitioner has suffered recovery, the recovered amount shall be redeposited with the Petitioner by the Zilla Parishad / Authority within sixty days. If the Petitioner is awaiting payment of unpaid amounts, he would also receive such benefits within 90 days. Considering the delay on the part of the Petitioner in approaching this Court, as like in the earlier orders passed in several matters, the Petitioner is not claiming any interest and we are not issuing directions for payment of interest.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]