

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.2185 OF 2022

1. Netram Chilbansao Bijewar,
Aged 52, Occu. Teacher,
R/o. Near Gram Panchayat Ghoti,
Post Ghoti, Tah. Goregaon, Dist. Gondia.
2. Dharmraj Durgaji Rinayat,
Age 54, Occu. Teacher,
R/o. Nehru Ward, Post Tirora,
Tah. Tirora, Dist. Gondia.
3. Ku. Nananbai Rupchand Bisen,
Age 54, Occu. Teacher,
R/o. Shastri Ward, Near Majdur Bhavan,
Gondia, Tah. & Dist. Gondia.
4. Ku. Nurjaha Begam Habibbhai Pathan,
Age 53, Occu. Teacher,
R/o. Near Bus Stop, Main Road,
Mundipar, Tah. Goregaon, Dist. Gondia.
5. Anandrao Premal Punje,
Age 59, Occu. Retired,
R/o. Shubhlaxmi Residency, Fulchur Naka,
Behind RTO Office, Tah. & Dist. Gondia.

PETITIONERS

VERSUS

1. State of Maharashtra,
Through its Secretary,
Department of Rural Development
and Water Conservation, Mantralaya,
Mumbai- 32.

2. Divisional Commissioner,
Nagpur, Tah. & Dist. Nagpur.
3. Zilha Parishad Gondia,
Through its Chief Executive Officer, Gondia.
4. Zilha Parishad Gondia,
Through its Chief Education Officer, Gondia.
5. Zilha Parishad Gondia,
Through its Chief Account and
Finance Officer, Gondia.

RESPONDENTS

Mr. A. S. Chakotkar, Advocate for the Petitioners.
Mr. N. S. Rao, Assistant Government Pleader for Respondents 1 and 2/State.
Mr. A. Parihar, Advocate for Respondents 3 to 5.

**CORAM : ROHIT B. DEO AND
MRS.VRUSHALI V. JOSHI, JJ.**
DATE : 26.04.2023.

JUDGMENT : [PER : MRS.VRUSHALI V. JOSHI, J]

1. **Rule.** Rule is made returnable forthwith. Heard finally with consent of the parties.

2. Petitioners 1 to 4 are serving as Primary Teachers on the establishment of Zilla Parishad, Gondia while petitioner 5 superannuated on 30-11-2020.

3. Petitioners are District Awardee Teachers. The Government of

Maharashtra issued Circular dated 12-12-2000 granting additional increment to District Awardee Teachers. However, vide Circular dated 04-9-2018 the said benefit was taken away, which has constrained the petitioners to approach this Court seeking a direction that the benefit of the additional increment be continued, as far as petitioners 1 to 4 are concerned, and petitioner 5 be paid pension considering the benefit of the additional increment. It is further prayed that no recovery be made, and recovery made, if any, be directed to be refunded.

4. Respondent 2 has filed an affidavit-in-response. It is submitted that in view of the implementation of the new wage revision in the year 2006, the State Government resolved to stop the benefit of the additional increment to District Awardee Teachers. It is further submitted that as per the Government Resolution dated 24-8-2017, decision is taken to withdraw the benefit of the additional increment granted during the period 01-10-2006 to 01-10-2015. In furtherance to the decision, Circular dated 04-9-2018 is issued withdrawing Clause 12 incorporated in Circular dated 12-12-2000.

5. The issue is not *res integra*. Bunch of petitions (Writ Petition 1954/2018 and connected matters) are decided at Aurangabad Bench vide judgment dated 25-1-2019. It is held by the Coordinate Bench that the Government Resolution dated 04-9-2018 cannot operate retrospectively. Following the said view, Writ Petition 6474/2018 is decided at Nagpur Bench vide judgment dated 14-2-2019 and we may extract the relevant observations in the said decision.

“4. Upon consideration of the Government Resolution dated 04-09-2018 and also the Government Circular dated 12-12-2000, we see no reason to strike a different note in the matter. We are also of the opinion that the Government Resolution dated 04-9-2018 cannot be interpreted to be issued with any retrospective effect. There is no clause either in the Government Resolution dated 04-09-2018, expressly stating that deletion of Clause 12 of Government Circular dated 12-12-2000 shall be with retrospective effect. After all, when it comes to withdrawal of a monetary benefit with retrospective effect, it must be done so in an express manner and possibly upon certain conditions being fulfilled. Such express terms are not to be found in Government Resolution dated 04-09-2018

and, therefore, we would reiterate this Government Resolution has no retrospective effect. So, we are of the view that all these petitioners are also entitled to have the benefit of the grant of advance increment in terms of the Government Circular dated 12-12-2000 from such dates, as would be applicable to them and determined to be so on merit of each of the individual matter by the Zilla Parishads.

5. At this stage, it has been argued on behalf of the Zilla Parishads, who are party-respondents to these petitions, that most of the petitioners have approached this Court belatedly and, therefore, if any benefit of Clause 12 of the Government Circular dated 12-12-2000 is to be given, it cannot be permitted to be conferred upon them for a period which is more than three years computed in a reverse manner from the date of filing of the petitions and this has also been accepted by another Division Bench of this Court in its judgment rendered in a group of writ petitions being Writ Petition No.8165/2017 and Writ Petition No.8170/2017 decided on 5th April, 2018. If this is the contention raised on behalf of the respective Zilla Parishads, we would only say that it would be for the authorities to take appropriate decision on individual basis in the matter by taking into consideration not only the judgment dated 05-4-2018 of this Court, but also other

applicable judgments.”

6. In this view of the matter, we are inclined to allow the petition by issuing the following directions.

The respondent/Zilla Parishad after satisfying themselves about the petitioners being District Awardee Teachers having been awarded certificates prior to 04-9-2018 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 merits of each individual case by considering the judgments rendered in all the applicable cases as expeditiously as possible and preferably within a period of six months.

7. Rule is made absolute in the afore-stated terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)