

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

WRIT PETITION NO. 3113 OF 2021

Asha Girdharilal Karhade,
aged about 52 years, Occ. Household,
R/o Adarsh Colony, behind Panjabi Saw Mill,
Tq. Goregaon, District – Gondia.

PETITIONER

.....VERSUS.....

1. Divisional Commissioner, Nagpur,
Division – Nagpur, Tq. and Dist. Nagpur.
2. Zilla Parishad, Gondia,
through its Chief Executive Officer, Gondia,
Tq. and Dist. Nagpur.
3. Education Officer (Primary),
Zilla Parishad, Gondia, Tq. and Dist. Nagpur.
4. Chief Accounts and Finance Officer,
Zilla Parishad, Gondia, Tq. and Dist. Gondia.

RESPONDENTS

Shri A.R. Deshpande, Advocate for the petitioner.
Shri A.A. Madiwale, Assistant Government Pleader for respondent no.1.
Shri Abhijit Parihar, Advocate for respondent nos. 2 to 4.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : AUGUST 2, 2023

ORAL JUDGMENT : (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned counsel for the parties.

2] The husband of the petitioner was selected to receive the District Award in the year 2006. The benefits thereof came to be received by him during his lifetime. He opted for voluntary retirement for medical

reasons on 13/7/2017. He expired on 16/10/2017 after which the petitioner started receiving family pension. By the impugned communication dated 20/2/2020, the additional increment that was being received by virtue of her husband receiving the District Award came to be discontinued on the ground that it was not permitted to be so granted in view of the recommendations of the 6th pay commission. The petitioner is presently receiving family pension without the benefit of that additional increment. Being aggrieved, the petitioner has challenged the said impugned communication.

3] After hearing the learned Counsel for the parties and after perusing the documents on record, we find that the issue with regard to discontinuing the benefit of additional increment in the light of recommendations of the 6th pay commission is settled and the Government Resolution dated 24/8/2017 does not seek to withdraw such benefits received earlier. In *Sanjay Ramkrushan Waghmare & Ors. Vs. State of Maharashtra & Ors.* [Writ Petition No. 5419/2018 decided on 14/2/2019] this Court has held that such benefits are liable to be continued since the entitlement to receive the same is prior to 4/9/2018. Hence, for the reasons recorded in the order passed in *Sharad Pawar & Ors. Vs. The State of Maharashtra & Ors.* [Writ Petition No. 625/2016 decided on 17/11/2017] as well as the judgment in *Sanjay Ramkrushan Waghmare & Ors. (supra)*, the following order is passed :

ORDER

i] The communication dated 20/2/2020 issued by the Education Officer (Primary) is set aside. The Zilla Parishad is directed to restore the benefit of additional increment along with family pension as was being done prior to issuance of the impugned communication. Necessary consequential steps be taken within a period of six weeks of receiving copy of the judgment.

ii] Rule is made absolute in the aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)

Sumit