

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
WRIT PETITION 4071 OF 2022

Petitioner : Smt. Pushpa w/o Ramshiromani Dwivedi,
 Aged about 62 Years, Retired Assistant Teacher,
 R/o Plot No.54, Jaibajrang Society,
 Manav Seva Nagar, Near Alijabeth School,
 Seminari Hill, Nagpur – 440006.
 – Versus –

Respondents : 1. The Principal Secretary,
 School Education and Sports Department,
 Mantralaya, Extension Bhawan,
 Madam Kama Road, Hutatma Rajguru Chouk,
 Mumbai – 32.
 2. The Education Officer (Secondary),
 Zilla Parishad, Nagpur.
 3. The Head Master,
 Adarsh High School, Kanhan,
 Tahsil Parshioni, District Nagpur.
 4. The Senior Accounts Officer,
 Office of Accountant General (A&E) II,
 Maharashtra, Nagpur.

 Mr. D.M. Surjuse, Advocate for the Petitioner.
 Mrs. K.R. Deshpande, A.G.P for Respondents 1, 2 & 4.
 Mr. P.A. Gode, Advocate for Respondent 3.

CORAM: **ROHIT B. DEO AND M.W. CHANDWANI, JJ.**
DATE : **21st JUNE, 2023.**

J U D G M E N T : *(Per M.W. Chandwani, J.)*

Rule. Rule made returnable forthwith. Heard the petitions finally
 by consent of the learned Counsel appearing for the parties.

02] The grievance in this petition is the refusal of respondents to grant the benefit of one annual increment, which fell due on 30th June to the petitioner, who superannuated on 30th June, 2018.

03] The learned Counsel appearing for the petitioner submits and the learned Assistant Government Pleader appearing for the respondents/State fairly agrees that the issue is squarely covered by several decisions of this Court, which have relied on the decision of Hon'ble Supreme Court in *Civil Appeal 2471/2023 (The Director (Admn. and HR) KPTCL & ors. Vs. C. P. Mundinamani and ors., dated 11/04/2023.*

04] We find that equities can be met by declaring that the petitioner shall be entitled to the increment, which fell due on the 30th June of the year, in which the petitioner has superannuated. The pension of the petitioner shall have to be re-fixed. However, the re-fixation shall be notional and the petitioner shall be entitled to the arrears in view of the re-fixation only for the period of three years preceding the date of institution of the petition.

05] In this view of the matter, we allow the petition and direct the respondents to give notional annual increment to the petitioner for having completed one full year of service on the date of her superannuation/

retirement i.e. 30th June, 2018 and, accordingly, consequential benefits due and payable shall be worked out by the respondents from the period of three years preceding the date of institutions of the petition and paid to the petitioner within a period of six weeks from the date of this judgment.

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

(M.W. CHANDWANI, J.)

(ROHIT B. DEO, J.)

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