

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

WRIT PETITION (WP) 4138/2022

1. Suresh Gulabrao Nikhade, aged about-59 years, Occu- Retired, R/o Saroday Colony Dhamangaon, Dist. Amravati.
2. Prakash Shrikrushnarao Umap, aged about-65 years, Occu-Retired, R/o Gayatri Colony, Kathora road, VMV Dist. Amravati.
3. Vitthal Yashwantrao Kantale, aged about 65 years, Occu-Retired, R/o Anand Nagar, Dist. Amravati.
4. Mohammad Nazir Ahmad Shekh Mohammad, aged about-62 years, Occu-Retired, R/o At po. Tq. Nadgaon Khandeshwar, Amravati.
5. Vitthal Janardhan Mavande, aged about 59 years, Occu-Retired, R/o At. Po. Dahigaon Tq. Nandgaon Khandeshwar, Amravati, Dist. Amravati.
6. Sharad Shrikrushna Umap , aged about 63 years, Occu-Retired, R/o. Nandgaon Khandshwar MNP, Dist. Amravati.
7. Manohar Wasudevrao Bhoyar, aged about- 60 years, Occu-Retired, R/o Nandgaon Khandeshwar, Amravati, Dist. Amravati.
8. Vinod Punjabrao Sagane, aged about-65 years, Occu-Retired, R/o Mahan Nagar, Amravati Nawsari.
9. Ashok Vitthalrao Warekar, aged about 61 years, Occu-Retired, R/o Raywan Hill No

101, Mangilal Plot, Amravati, Tq and Dist. Amravati.

10. Vilas Abhimanji Gavner, aged about- 59 years, Occu-Retired, R/o Tirupati Nagar no 1, Akoli road, Sai Nagar, Amravati, Tq and Dist. Amravati.
11. Pratibha Keshavrao Bhaise, aged about 59 years, Occu-Retired, R/o at post Chandur Railway, Dist. Amravati.
12. Narayan Erabhanji Sonone, aged about-59 years, Occu-Retired, R/o Sahajanand Nagar, At po. Amravati, Dist. Amravati.
13. Mohansing Pratapsing Thakur, aged about-64 years, Occu-Retired, R/o at post Gurudev Nagar, Tq. Tiosa, Dist. Amravati.
14. Tulsidas Shankarrao Tayade, aged about 65 years, Occu-Retired, R/o at post Shenodla, Kh., Tq. Tiosa, Amravati.
15. Bhaurao Haribhau Meshram, aged about 65 years, Occu-Retired, Ro At po. Hiwra Bk, Nandgaon Kh, Dist. Amravati.
16. Vinod Shyamraoji Khulekar, aged about 59 years, Occu-Retired, R/o Ganpati Nagar, Chintamani Lawn, Amravati, Dist. Amravati.
17. Prabhakar Vyankatrao Deshmukh, aged about-60 years, Occu-Retired, R/o Malu Layout, Mangaldham Colony, Dist. Amravati.
18. Ramesh Janrao Kokate, age about-68 years, Occu-Retired, R/o Shyam Nagar, Amravati, Dist. Amravati.
19. Rajendra Namdevrao Ghaddinkar, aged about-59 years, Occu-Retired, R/o At po.

Chandur Railway, Tq Chandur Railway, Dist. Amravati.

20. Rajabhau Vaykunthrao Deshmukh, aged about-63 years, Occu-Retired, R/o Aashiyad Colony, Amravati, Dist.Amravati.
21. Madhav Ramkrushnarao Chaware, aged about 62 years, Occ. Retired, R/o J.B. Park, Vyanktesh Nagar, Dhamangaon Railway, Dist. Amravati.
22. Raju Shankarrao Pawar, Aged About 60 years, Occ. Retired, R/o Rathi Nagar, Dist. Amravati.
23. Shila Ashokrao Kurhade, Aged about 59 years, Occ. Retired, R/o Vidyut Nagar, VMV post, Amravati.
24. Manda Janrao Wadekar, Aged about 64 years, Occ. Retired, R/o Vidyut Nagar, VMV post, Amravati.
25. Madhukar Ramraoji Kharkale, Aged about 59 years, Occ. Retired, R/o Pushkarna Nagar near ploytech College, Dhamangaon Railway, Dist. Amravati.
26. Mumtaz Husain Afjal Husain, Aged about 60 years, R/o Q no 2, Government Academic School, Walgaon Road, Amravati.
27. Liyaquat Tabasuum Moh. Ammad Yunus, Aged about 61 years, R/o Q no 14 Aseer Colony, Near Nizi School, Amravati.

..... PETITIONER(S)

// VERSUS //

- 1) State of Maharashtra,
Secretary, Rural Development & Water
Conservation Department, Mantralaya, Mumbai -32

- 2) State of Maharashtra through its Secretary,
School Education & Sports Department,
Mantralaya, Mumbai -32
- 3) Divisional Commissioner, Amravati
Division, Amravati, Tq. & Dist. Amravati.
- 4) Zilla Parishad, Yavatmal through its Chief
Executive Officer, Amravati, Tq. & Dist.
Amravati
- 5) Education Officer (Primary) Zilla
Parishad, Amravati, Tq. & Dist. Amravati. RESPONDENT(S)

Mr. A.R. Deshpande, Advocate for the petitioners
Mr. S.M. Ukey, AGP for the respondents 1 to 3
Mr. M.G. Rathi, Advocate for respondents 4 and 5

**CORAM : ROHIT B. DEO AND
M. W. CHANDWANI, J.J.**

DATED : 17/07/2023

ORAL JUDGMENT : (PER:- M. W. CHANDWANI, J.)

Rule. Rule made returnable forthwith. Heard 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 petitioners, who superannuated on 30th June of the relevant year.

03] The learned Counsel appearing for the petitioners submits
and the learned Additional Government Pleader appearing for the
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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] Since, the issue of entitlement of annual increment of the petitioners is squarely covered by the decision of the Supreme Court in *C.P. Mundinamani* (*supra*), wherein it has been held that a government servant is entitled to the benefit of the annual increment on the eventuality of having served for a specific period of one year with good conduct efficiently. Merely because, the employee has retired on the very next day, he cannot be denied the annual increment, which he has earned and/or entitled to for rendering the service with good conduct and efficiently in the preceding one year. On the same line, the petitioners are also entitled for one annual increment. We find that equities can be met by declaring that all the petitioners shall be entitled to the increment, which fell due on the 30th June of the year, in which the petitioners have superannuated. The pension of the petitioners shall have to be re-fixed. However, the re-fixation shall be notional and the petitioners 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 petitioners for having completed one full year of service on the date of their superannuation/ retirement i.e. 30th June of the relevant year and, accordingly, consequential benefits due and payable shall be worked out by the respondents from the period of three years preceding the date of institution of the petition and paid to the petitioners within a period of eight weeks from the date of this judgment.

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

(M. W. CHANDWANI, J.)

(ROHIT B. DEO J.)