

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

WRIT PETITION (WP) 4166/2022

1. Krishna Shanakarrao Makode, aged about-67 years, Occu- Retired, R/o Sumit Gruh Nirman Sanstha, plot no 1, Chandore Nagar, Moha, Dist. Yavatmal.
2. Mohammad Akbar Sheikh Hasasn, aged about- 70 years, Occu-Retired, R/o House no 105, Savosata Lay-out Bhosa Road, Kathora road, VMV Dist. Yavatmal.
3. Jardad Khan Rahim Saiyaad Khan, aged about- 60 years, Occu-Retired, R/o Malant Society, Bhosa Road, Yavatmal, Dist. Yavatmal.
4. Madhav Bisanrao Jadhav, aged about 59 years, Occu-Retired, R/oGhar no 92, Near Shyam Society hall, Ravi Nagar, Shyam Society, Juna Juna Umarsara, Yavatmal, Dist. Yavatmal.
5. Rafiya Bano Salimodhin, aged about-59 years, Occu-Retired, R/o 09-414/2, Rajeev Nagar, Teacher Colony, Mavala Adilabad, Telangana.
6. Mohammad Sabir Mohammad Yusuf Sheikh, aged about-59 years, Occu-Retired, R/o Darwha Railway station Road, ward no 17, near Bajaj Kirana Darwha, Dist. Yavatmal.
7. Kuzi Wakiuddin Hakimoddin, aged about- 73 years, Occu-Retired, R/o Ramrahim Nagar, Gate no 60, Behind RTO office, Nagpur road, Yavatmal, Dist. Yavatmal.
8. Kanteshewar Marotrao Malvi, aged about-72 years, Occu-Retired, R/o at po. Kotha(Veni), Kalamb, Dist. Yavatmal.

9. Dnyaneshwar Gangaramji Yewale, aged about- 72years, Occu-Retired, R/o Nehru Chowk, Kalamb, Dist. Yavatmal.
10. Gajanan Hiranmanji Fating, aged about 64 years, Occu-Retired, R/o At Po. Mata Nagar, Ward no 7, Ralegaon, Dist. Yavatmal PETITIONER(S)

// VERSUS //

- 1) State of Maharashtra, through its 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, Yavatmal, Tq. & Dist. Yavatmal.
- 5) Education Officer (Primary) Zilla Parishad, Yavatmal, Tq. & Dist Yavatmal. RESPONDENT(S)

 Mr. A.R. Deshpande, Advocate for the petitioners
 Mr. N.S. Rao, AGP for the respondents 1 to 3
 Mr. V.B. Bhise with Mr. J.Y Ghurde, Advocates for the respondent 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 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] 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.)