

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

WRIT PETITION NO.5190 OF 2022

Petitioners

- : 1. Vishwanath Anantrao Pande,
Aged about 60 Years, Occu. Retired,
R/o Vasant Nagar, Umarkhed, Dist. Yavatmal.
2. Kamalkishor Bhikamchand Joshi,
Aged about 62 Years, Occu. Retired,
R/o B rahmangaon, Umarkhed, Dist. Yavatmal.
3. Nirmala Marotrao Gedam,
Aged about 59 Years, Occu. Retired,
R/o Vasant Layout Old, Umarsara, Dist. Yavatmal.
4. Sudhakar Vitthalrao Chambhare,
Aged about 70 Years, Occu. Retired,
R/o Kejaji Chowk, Wardha.
5. Bhimrao Shivram Kamble (Dead),
through his Nominee
Chandatai Bhimrao Kamble (Wife),
Aged about 64 Years, Occu. Retired,
R/o Bitargaon, Tah. Umarkhed, Dist. Yavatmal.
6. Jagdish Prabhakar Malve,
Aged about 61 Years, Occu. Retired,
R/o Vidul, Tah. Umarkhed, Dist. Yavatmal.
7. Ramchandra Kashiram Parade,
Aged about 61 Years, Occu. Retired,
R/o M. Gandhi Ward, Umarkhed, Dist. Yavatmal.
8. Subhash Ram Mukkawar,
Aged about 61 Years, Occu. Retired,
R/o Vivekanand Colony, Umarkhed,
Tah. Umarkhed, Dist. Yavatmal.
9. Tulshiram Narayan Palthe,
Aged about 73 Years, Occu. Retired,

R/o Runza Kelapur, Dist. Yavatmal.

10. Vijay Digambar Vatile,
Aged about 59 Years, Occu. Retired,
R/o Thakare Layout, Pandharkwda,
Tah. Pandharkwda, Dist. Yavatmal.
11. Varsha Kisanrao Dhok,
Aged about 62 Years, Occu. Retired,
R/o Shivaji Ward 2, Kelapur, Tahl Kelapur,
Dist. Yavatmal.
12. Wardhaman Madhavrao Punde,
Aged about 61 Years, Occu. Retired,
R/o Dhanki, Tah. Umarkhed, Dist. Yavatmal.
13. Meena Sudhakarro Donade,
Aged about 59 Years, Occu. Retired,
R/o Bajoriya Nagar, Behind Samarth Mandir,
Yavatmal.
14. Gopal Narayanrao Deshmukh,
Aged about 62 Years, Occu. Retired,
R/o Savna, Tah. Mahagaon, Dist. Yavatmal.
15. Amarsingh Pira Rathod,
Aged about 65 Years, Occu. Retired,
R/o Darati, Umarkhed, Tah. Umarkhed,
Dist. Yavatmal.
16. Gangaram Limbaji Kale,
Aged about 60 Years, Occu. Retired,
R/o Raviraj Nagar, Rugved Campus,
Tah. Pusad, Dist. Yavatmal.
17. Vanita Babarao Mule,
Aged about 73 Years, Occu. Retired,
R/o Shankar Nagar, Pusad, Dist. Yavatmal.
18. Suresh Mohanlal Jaiswal,
Aged about 63 Years, Occu. Retired,
R/o Sainath Society, Wadgaon, Dist. Yavatmal.
19. Ganesh Sambhaji Kadam,

Aged about 59 Years, Occu. Retired,
R/o Umarkhed, Tah. Umarkhed, Dist. Yavatmal.

20. Ramesh Vasantrao Pandalwar,
Aged about 59 Years, Occu. Retired,
R/o Shivaji Ward No.3, Pandharkwda,
Tah. Pandharkwda, Dist. Yavatmla.
21. Dilip Uttamrao Manwar,
Aged about 61 Years, Occu. Retired,
R/o Sane Guruji Nagar, Lohara, Yavatmal,
Dist. Yavatmal.
22. Kisanrao Sheshrao Deshmukh,
Aged about 61 Years, Occu. Retired,
R/o Khadka, Tah. Mahagaon, Dist. Yavatmal.
23. Shalini Vijaykumar Bedre,
Aged about 59 Years, Occu. Retired,
R/o Paldiwal Layout, Near Asegaonkar School,
Pusad, Tah. Pusad, Dist. Yavatmal.
24. Vishwambhar Dattatray Lankalwar,
Aged about 58 Years, Occu. Retired,
R/o Brahmangaon, Tah. Umarkhed, Dist. Yavatmal.

– Versus –

Respondents

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

Mr. V.N. Patre, Advocate for the Petitioners.
Mrs. K.S. Joshi, Additional Government Pleader for Respondent Nos.1 to 3.
Mr. B.N. Jaipurkar, Advocate for Respondent Nos.4 and 5.

CORAM: **ROHIT B. DEO AND M.W. CHANDWANI, JJ.**
DATE : **5th JULY, 2023.**

J U D G M E N T : (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 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.)

**sandesh*