

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

WRIT PETITION (WP) 5063/2022

1. Shriram Manoharrao Bhoyar,
Aged about 63 years, Occ- Retired,
R/o Chitnispura, Mahal, Nagpur- 440032
2. Keshao Ramaji Kothe,
Aged about 60 years, Occ- Retired,
R/o Plot no. 9, Bhajrangnagar,
Zingabai Takli, Koradi road,
Nagpur- 440030.
3. Anil Anandrao Barde
Aged about 59 years , Occ- Retired,
R/o Shikshak Colony, Sarvashrinagar
Plot No. 50, Bharatwada road,
Kalmana road, Nagpur- 440035.
4. Arun Bapurao Mogarkar,
Aged about 64 years, Occ- Retired,
R/o Plot no. 205, near Nandaji Mandir
Lendhra Park, Ramdaspath,
Nagpur- 440010
5. Sau. Vidya Vinodsingh Chandel,
Aged about 66 years, Occ- Retired,
R/o Plot no. 301, Sarvasnest
Rajaram, Co-operative Society,
near Shyam lawns, Jaffar Nagar,
Nagpur- 440023.
6. Smt. Sindhu Subhash Raghuse,
aged about 64 years, Occ- Retired,
R/o Plot no. 58, Sarvshrinagar,
Dighori, Umred raod,
Nagpur-440023
7. Shri. Karan Fakiralal Chaudhary,
Aged about 69 years, Occ-Retired,
R/o Plot no. 13 and 14, Ayyappa

nagar, Rathod lawn, Gorewada road,
Ring road, Nagpur- 440013.

8. Suryapratap Wamanrao Maliye,
aged about 60, Occ- Retired,
Mu. Bailwada ,Po. Gumthala,
Tq. Nagpur, Dist. Nagpur.
9. Abdul Rafiq Abdul Karim,
Aged about 60 years, Occ- Retired,
R/o Plot no. 185,Bismillah Complex,
Yashodhara Chowk, Kamthee road,
Peeli Nadi, Nagpur- 440026.

..... PETITIONER(S)

// VERSUS //

1. State of Maharashtra, through its
Secretary, Urban Development
Department, Mantralaya,
Mumbai -400032
2. Nagpur Municipal Corporation,
Through its
Commissioner/Administrator of the
Nagpur Municipal Corporation
Civil Lines, Nagpur-440001
Tq. & Dist. Nagpur

.... RESPONDENT(S)

Mr. A.R. Deshpande, Advocate for the petitioners
Mr. M.K. Pathan, AGP for the respondent 1
Mr. N.H. Joshi, Advocate for respondent 2

**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 respondent/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.)