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

WRIT PETITION NO. 5843 OF 2022

Petitioners

1. Subhash S/o Devendra Bangre, Aged about 59 years, Occupation : Retired, R/o. Shri Aher's Wada, Behind Katyani Hospital, Balaji Ward, Chandrapur, Tq. & Distt. Chandrapur

2. Kishor S/o Vitthalsingh Yeotikar, Aged about 60 years, Occupation : Retired, R/o Ekvira Niwas, Jagganathbaba Nagar, Chandrapur, Tq. & District Chandrapur 442401.

3. Ashok S/o Shivnath Labhane, aged about 60 years, Occupation : Retired, R/o Nirman Nagar, Tukum, Ward No.1, Chandrapur, Tq. & District Chandrapur.

4. Bhimrao S/o Vishwanath Soge, aged about 61 years, Occupation : Retired, R/o Flat No.404, Heritage Tower, Jakir Hussain Ward, Near Swimming Pool, Ballarpur, Tq. Ballarpur, District Chandrapur - 01.

5. Satish S/o Laxmanrao Dharme, aged about 61 years, Occupation : Retired, R/o Plot No.15, "Parijat", Shri Sant Namdev Nagar, Manewada Road, Nagpur-24.

6. Sau. Roopabai W/o Gangadin Mogre, aged about 64 years, Occupation : Retired, R/o Khutala, MIDC, Police Colony, Chandrapur, Tq. & District Chandrapur.

7. Sheshrao S/o Ramchandra Gurav, aged about 64 years, Occupation : Retired, R/o 47, Venuevan Society, Narendra Nagar, Nagpur-15.

8. Arvind Laxmanrao Uplenchwar, aged about 64 years, Occupation : Retired, R/o Nirman Nagar, Tukum, Ward No.1, Chandrapur, Tq. & District Chandrapur.

-**Versus**-

Respondents

1. The State of Maharashtra, through its Secretary, Finance Department, Mantralaya, Mumbai.
2. The State of Maharashtra, through its Principal Secretary, (Law & Judiciary) Department, Mantralaya, Mumbai.
3. The Principal District & Sessions Judge, Chandrapur – through its Registrar, District Court, Chandrapur, Tq. & District Chandrapur.

Mr. S.N.Singh, counsel for the petitioners.
Mr. M.K.Pathan, AGP for respondent Nos.1 and 2.
Mr. Abhay Sambre, counsel for respondent No.3.

CORAM : AVINASH G. GHAROTE AND M.W.CHANDWANI, JJ.

CLOSED ON : 11TH AUGUST, 2023

PRONOUNCED ON: 18TH AUGUST, 2023

JUDGMENT (Per : M. W. Chandwani, J.)

Heard.

2. The grievance in the present 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 their respective years.

3. The learned Counsel appearing for the petitioners submits and the learned Counsel appearing for the respondents 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***.

4. 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 specified 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 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.

5. 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 their respective years 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.

6. Rule is made absolute in the aforesaid terms. No order as to costs.

(M.W.CHANDWANI, J) (AVINASH G. GHAROTE, J)