

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

WRIT PETITION (WP) 7326/2022

1. Javed Ali Asgar Ali Sheikh, aged about 60 years, Occu- Retired, R/o Sharma Layout, Wani Road, Tq. and Dist. Yavatmal.
2. Satish Anatrao Chikate, aged about- 60 years, Occu-Retired, R/o. Radhika Apartment, Borundiya Nagar, Dist. Yavatmal.
3. Ashok Gangadhar Deshpande, aged about 60 years, Occu-Retired, R/o Near Pragati Society, Ta. and Dist, Yavatmal.
4. Babarao Krushnarao Sawalakhe, aged about- di60 years, Occu-Retired, R/o Paravati Nagar, Umarsara, Tq. Dist. Yavatmal PETITIONER(S)

// VERSUS //

- 1) State of Maharashtra,
Secretary, Law and Judiciary Department,
Mantralaya, Mumbai -32.
- 2) Hon'ble Yavatmal District Court,
Yavatmal, Through Registrar, Tq and Dist.
Yavatmal. RESPONDENT(S)

Mr. A.R. Deshpande, Advocate for the petitioners
Mr. S.M. Ukey, AGP for the respondent 1
Mr. P.S. Kubalkar, 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 Additional 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.)