



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

7 WRIT PETITION NO. 15140 OF 2023

SUNIL KRISHNAJI PHADTARE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...

Advocate for the Petitioner : Mr. Mathpati Shivkumar K.

AGP for Respondents 1 to 6/State : Mr. S.B. Narwade

Advocate for Respondent 7 : Mr. A.T. Kanwade

...

CORAM : RAVINDRA V. GHUGE

&

Y. G. KHOBRAGADE, JJ.

DATE :- 22nd January, 2024

Per Court :-

1. The Petitioner seeks a Writ of Mandamus for directing the Respondent Authorities to grant one annual increment to the Petitioner as he completed one year service from 01.01.2021 till 31.12.2021 and retired on 31.12.2021. Increment payable to him on completion of twelve months service was not paid.

2. The learned Advocate for the Petitioner places reliance upon the notification dated 30.01.2019 issued by the Finance Department, more particularly, clauses 10(1), (2) and (3), which read as under:-

- “10. *Date of next increment in the revised pay structure:-*
- (1) *There shall be two dates for grant of annual increment namely, 1st January and 1st July of every year, instead of existing date of 1st July: Provided that, Government servant shall be entitled to only one annual increment either on 1st January or 1st July, depending on the date of his appointment, promotion or grant of financial upgradation.*
- (2) *The increment in respect of Government servant appointed or promoted or granted financial upgradation including upgradation under Modified Assured Career Progression Scheme (MACPS) during the period between the 2nd day of January and 1st day of July (both inclusive), shall be granted on 1st day of January of the following year and the increment in respect of Government servant appointed or promoted or granted financial upgradation including upgradation under MACPS during the period between the 2nd day of July and 1st day of January (both inclusive), shall be granted on 1st day of July of the following year.*
- (3) *In case Government servant is promoted or granted financial upgradation including upgradation under the MACPS on 1st January or 1st July, where the pay is fixed in the Level applicable to the post on which promotion is made in accordance with the rule 13, the first increment in the Level applicable to the post on which promotion is made shall accrue on the following 1st July or 1st January, as the case may be, provided a period of six months' qualifying service is strictly fulfilled. The next increment thereafter shall, however, accrue only after completion of one year.”*

3. Our attention is drawn to page No.39, which is the

statement issued by the in-charge Principal (undated) which indicates that since 01.01.2017, the Petitioner was receiving annual increments after the end of the year on 31st December, on the next day i.e. 01st January. His last five annual increments have been paid on the first day of January from 2017 onwards till 2021. He superannuated on 31.12.2021, after office hours.

4. This issue is no longer res-integra. The Honourable Supreme Court has delivered a judgment on 11.04.2023 in Civil Appeal No.2471/2023 (*The Director (Admn. and HR), KPTCL and others vs. C.P. Mundingamani and others, AIR 2023 SC 1956*), in which, it is held that the increment is earned for rendering service with good conduct in a year and the moment a servant has rendered service for a specified period of one year with good conduct, he is entitled to the annual increment. Merely because the servant has retired on the next day, he cannot be denied the annual increment, which he has earned for rendering the service in the preceding one year. Based on the said judgment, the Government of Maharashtra has issued the Government Resolution dated 28.06.2023. This has cleared the path for all such claimants.

5. In view of the above, **this Writ Petition is partly**

allowed as under:-

(a) The Petitioner is entitled to the notional addition of the last yearly increment for the purpose of calculating his pension, gratuity, earned leave, commutation benefits, etc..

(b) The Petitioner shall be entitled for further monetary benefits w.e.f. 01.01.2022 considering that this petition is filed within three years from the date of superannuation. Such arrears should be calculated and be paid to the Petitioner, on or before 31st May, 2024.

(c) Since the proposal has already been forwarded by Respondent No.7 to Respondent No.6, we expect Respondent No.6 to forward the proposal to Respondent No.5, who will in turn forward it to Respondent No.4. We grant 15 days to each of these Authorities at their levels to verify and forward the proposal. Respondent No.4 would clear it within 15 days on receiving it.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)