

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 8407 of 2024**

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RATILAL CHHAGANBHAI AGHERA & ORS.

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR SMIT P VAGHELA(10653) for the Petitioner(s) No.

1,10,11,12,13,14,15,16,17,18,19,2,3,4,5,6,7,8,9

MR VAIBHAV A VYAS(2896) for the Petitioner(s) No.

1,10,11,12,13,14,15,16,17,18,19,2,3,4,5,6,7,8,9

MR HS MUNSHAW(495) for the Respondent(s) No. 5,6

MR.KRUTIK A PARIKH(7268) for the Respondent(s) No. 3

MR HENIL SHAH AGP for the Respondent(s) No. 1,2,4,7

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 20/04/2026

ORAL ORDER

1. Heard learned advocate Mr.Kadiwala for learned advocate Mr.Vyas for the petitioners and learned AGP Mr.Henil Shah for the Respondent- State, learned advocate Mr.Krutik Parikh for the respondent No.3 and learned advocate Mr.Munshaw for the Respondent No.5 and 6.

2. By way of this petition, the petitioners have prayed for following relief;

(A) Direct the respondent authorities to grant one increment to the petitioners as per their entitlement and consequentially, direct the respondent authorities to revise the pension and other retirement benefits of the

petitioners and make payment of arrears with interest at the rate which the Honourable Court may deem just and proper, and

(B) Pending admission and final disposal of this petition the Honourable Court may be pleased to direct the respondent authorities to consider the case of the petitioners for grant of one increment, and

(C) Award the cost of this petition, and

(D) Grant any other relief or pass any other order which the Honourable Court may consider as just and proper in the facts and circumstances of the case.

3. It is the case of the petitioners that each of the petitioners joined service under the various respondents, and their birth month falls in June. Therefore, they attained the age of superannuation on June 30 of their respective years. Consequently, they were not granted the benefit of one increment that would have fallen due on July 1 of the same year.

4. Considering the prayers made, as well as the fact that the issue regarding grant of one increment to employees retiring on 30th June of every year has been considered by the

Hon'ble Supreme Court in *Union of India & Others vs. M. Siddaraj in Miscellaneous Application Diary No. 2400 of 2024 in Civil Appeal No. 3933 of 2023*, wherein the Hon'ble Supreme Court, by order dated 20th February 2025, passed the following order:

“Miscellaneous Application Diary Nos. 2400/2024, 35783/2024, 35785/2024 and 35786/2024

Delay condoned.

We had passed the following interim order dated 06.09.2024, the operative portion of which reads as under:

“(a) The judgment dated 11.04.2023 will be given effect to in case of third parties from the date of the judgment, that is, the pension by taking into account one increment will be payable on and after 01.05.2023. Enhanced pension for the period prior to 31.04.2023 will not be paid.

(b) For persons who have filed writ petitions and succeeded, the directions given in the said judgment will operate as res judicata, and accordingly, an enhanced pension by taking one increment would have to be paid.

(c) The direction in (b) will not apply, where the judgment has not attained finality, and cases where an appeal has been preferred, or if filed, is entertained by the appellate court.

(d) In case any retired employee has filed any application for intervention/impleadment in Civil Appeal No. 3933/2023 or any other writ petition and a beneficial order has been passed, the enhanced pension by including one increment will be payable from the month in which the application for intervention/ impleadment was filed.”

We are inclined to dispose of the present miscellaneous applications directing that Clauses (a), (b) and (c) of the order dated 06.09.2024 will be treated as final directions. We are, however, of the opinion that Clause (d) of the order dated 06.09.2024 requires modification which shall now read as under:

“(d) In case any retired employee filed an application for intervention/impleadment/writ petition/original application before the Central Administrative Tribunal/High Courts/this Court, the enhanced pension by including one increment will be payable for the period of three years prior to the month in which the application for intervention/ impleadment/ writ petition/ original application was filed.”

Further, clause (d) will not apply to the retired government employee who filed a writ petition/original application or an application for intervention before the Central Administrative Tribunal/High Courts/this Court after the judgment in “Union of India & Anr. v. M. Siddaraj”¹, as in such cases, clause (a) will apply.

Recording the aforesaid, the miscellaneous applications are disposed of.

We, further, clarify that in case any excess payment has already been made, including arrears, such amount paid will not be recovered.

It will be open to any person aggrieved by non-compliance with the directions and the clarification of this Court, in the present order, to approach the concerned authorities in the first instance and, if required, the Administrative Tribunal or High Court, as per law.

Pending applications including all intervention/impleadment applications shall stand disposed of in terms of this order.

Contempt Petition (Civil) Diary Nos. 38437/2023, 38438/2023, 11336/2024 and 20636/2024

In view of the order passed today in the connected matters, that is, M.A. Diary No. 2400 OF 2024 and other connected applications, the present contempt petitions will be treated as disposed of with liberty to the petitioners to take recourse to appropriate remedies, if required and necessary, as indicated supra. It goes without saying that the respondents shall examine the cases of the petitioners/ applicants in terms of the order passed today and comply with the same expeditiously.

Pending application(s), if any, shall stand disposed of.”

5. According to learned advocate Mr.Kadiwala, the

petitioner's case would fall under Category D stated in the first paragraph of the above-referred decision of the Hon'ble Supreme Court. Learned AGP Mr. Henil Shah, learned advocate Mr. Munshaw and learned advocate Ms. Krutik Parikh could not dispute the aforesaid fact.

6. Accordingly, the Respondents are directed to consider the case of the petitioners in light of the aforesaid decision of the Hon'ble Supreme Court in *M. Siddaraj (supra)* and to extend the benefits, as per the entitlement of each of the petitioners, within a period of three months from the date of receipt of this order.

6.1. In case if the respondent authority is of the view that any of the petitioners is not entitled to the benefit as prayed in this petition, a reasoned order for that may be passed and the same may be communicated to the petitioners within period of three months from the date of receipt of this order.

7. With the above direction, the petition stands disposed of. Notice is discharged. No order as to costs.

BHAVIN MEHTA

(NIRZAR S. DESAI,J)