

Regarding grant of one increment for the purpose of pension and retiral benefits to the employees superannuating on 30<sup>th</sup> of June

GOVERNMENT OF GUJARAT

**Finance Department**

GR No.: EJF-102023-41-CH

Sachivalaya, Gandhinagar

Dated: 12/08/2024

**Read: -**

- (1) Gujarat Civil Services (Pay) Rules, 2002
- (2) Gujarat Civil Services (Leave) Rules, 2002
- (3) Gujarat Civil Services (Pension) Rules, 2002
- (4) Government Notification, Finance Department no. PGR/1009/2/Pay Cell (M), Dated: 27.02.2009.
- (5) Government Notification, Finance Department no. PGR/102016/2/Pay Cell, Dated: 19.08.2016.
- (6) Judgment of Hon. Supreme Court in SLP.6185/2020 decided on 11.04.2023.
- (7) Judgment of Hon. High Court in SCA. 15163 OF 2023 decided on 26.09.2023.
- (8) Judgment of Hon. High Court in CA/9 of 2024 in Letters Patent Appeal No. 37312 of 2023 decided on 08.01.2024
- (9) Resolution No. EJF-102023-41-CH Dated: 18.11.2023.
- (10) Judgment of Hon. Supreme Court in SLP. 6378 of 2024 decided on 22.03.2024.
- (11) Hon. High Court of Judicature of Bombay Bench at Aurangabad, Order dated 16.02.2023 passed by the Aurangabad High Court in Petition No. 1881/2023 and other petitions
- (12) The Gujarat Civil Services (Pay) (Amendment) Rules, 2024. Dated: 05/08/2024

**Preamble**

1. Rule 39 of the Gujarat Civil Services (Pay) Rules, 2002 provides for service which counts for increment, is as under: -  
“Subject to the provisions of Rules-11, 13, 15, 16, 19, 23, 30, & 44, all periods of duty discharged in a post on a time-scale, shall count for increments in that time-scale. For the purpose of arriving at the date of next increment in that time scale, the total of all such periods which do not count for increment in that time scale, shall be added to the normal date of increment.

Provided that the increment shall be admissible from the 1st of the month in which it accrues.”

As per the above rule, the employees, who were superannuating on 30th of June, were not entitled to increment accruing on 1st of July.

2. Litigations were initiated by Government employees across, various states, to avail the benefit of one increment accruing on the 1<sup>st</sup> of July. Vide the judgment and order passed by the Hon’ble Supreme Court on 11.04.2023 in SLP No: 6185/2020, in the matter between The Director (Admn. and HR) KPTCL & Ors. Vs. C.P. Mundinamani, the issue was decided in the favour of employees. Paragraph 7 of the said judgment reads as under:
3. ***“7. In view of the above and for the reasons stated above, the Division Bench of the High Court has rightly directed the appellants to grant one annual increment which the original writ petitioners earned on the last day of their service for rendering their services preceding one year from the date of retirement with good behavior and efficiency. We are in complete agreement with the view taken by the Division Bench of the High Court. Under the circumstances, the present appeal deserves to be dismissed and is accordingly dismissed.”***
4. In the aforesaid backdrop, in order to implement the principle laid down by Hon’ble Supreme Court, the State Government has considered it necessary that an amendment be made in the Gujarat Civil Services (Pay) Rules, 2002, by insertion of a Proviso to Sub rule (1) of Rule 39 is as under:

**“Provided further that, an employee retiring a day prior to the day of accrual of increment, shall be granted one increment on the day of retirement for the purpose of retiral benefits.”**

5. Petitions were filed before Hon’ble High Court of Gujarat seeking the benefits of one increment in terms of the judgment and order dated 11.04.2023, passed by the Hon’ble Supreme Court. In Special Civil Application No. 15163/2023, vide judgment and order dated 26.09.2023, the Hon’ble Court was pleased to grant the benefit of one increment in view of the principle laid down by the Apex Court, and additionally granting consequential retiral benefits from the date of retirement.
6. Order dated 26.09.2023 passed in Special Civil Application No. 15163 of 2023 to the extent of granting of consequential benefits and arrears of pension, came to be challenged by way of an intra-court appeal in F/Letters Patent Appeal No. 37312 of 2023. The

given to all retired pensioners, in terms of the judgment of Hon'ble Supreme Court dated 11.04.2023 and without discriminating between the petitioners and other employees, the policies as adopted by other states were scrutinized. It was noted that Hon'ble High Court of Bombay has passed the order dated 16.02.2023 in Petition No. 1881/2023 and others, directing the State of Maharashtra to grant the benefit of one annual increment by restricting the payment of arrears up to 3 years preceding the date of application or date of retirement. The Hon'ble Supreme Court has also restricted the benefit of arrears to 3 years in :-

- (i) **State of Punjab v/s Amarnath Goyal; 2005 (6) SCC 754.**
- (ii) **State of Bihar v/s Bihar Pensioners Samaj 2006 (5) SCC 65**

### **Resolution**

After careful consideration, in supersession of the policy made under Government Resolution dated 18.11.2023 cited at serial no. (9), State Government is pleased to frame a policy for the grant of one increment and, resolve that the benefits of one increment for the purpose of pension and other retiral benefits will be granted to the employees superannuating on 30th of June, as follows:

(1) Eligibility- The benefits for the grant of one increment in terms of sub rule (1) of Rule 39 of the Gujarat Civil Services (Pay) Rules, 2002 shall be granted to the employees:

a) who are covered under the State services, panchayats services and those grant-in-aid institutions wherein the Government has extended the benefits of 6th pay commission.

b) (i) who have superannuated on 30th of June during the period commencing from 01.01.2006 to 30.06.2023, having rendered a qualifying service as provided in sub rule (1) of Rule 39 of Gujarat Civil Services (Pay) Rules, 2002 in preceding one year; or

(ii) who have superannuated after 30th of June, 2023, having rendered a qualifying service as provided in sub rule (1) of Rule 39 of Gujarat Civil Services (Pay) Rules, 2002 in preceding one year from the date of their retirement;

### **(2) Pensionary Benefits to be granted**

(i) Pension of the employees superannuated on 30th of June during the period commencing from 01.01.2006 to 30.06.2023, shall be revised after considering one increment on the date of superannuation. However, the arrears of the revised pension shall, be paid for a maximum period of 3 (three) years immediately following the date of retirement. The actual benefit of revised pension shall

Hon'ble Division bench vide order dated 08.01.2024, dismissed the F/Letters Patent Appeal No. 37312 of 2023 on the grounds of delay. The Hon'ble Division Bench however observed that :-

**“As far as the request of the State about coming out with the policy to implement the directions of the Supreme Court and the payment of increment are concerned, it is domain of the State. For any court of law, the directions of the Supreme Court is the law of the land.”**

7. The order dated 08.01.2024 passed in Letters Patent Appeal No. was also challenged before the Hon'ble Apex Court in Special Leave to Appeal (c) No. 6378 of 2024. Hon'ble Apex Court dismissed the petition of the State vide order dated 22.03.2024, observing that:-

*“4 From the perusal of the materials on record, we do not find that any such policy was in existence on the date on which the judgement was delivered by the learned Single Judge.*

*5. The learned Solicitor General, at this stage, pressed that the State may be granted liberty to come out with a policy in that regard.*

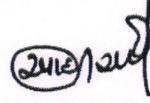
*6. Framing of the policy is exclusively within the domain of the Executive. The Executive, if required, can always come out with a policy as deemed fit and proper in the facts of the case.”*

8. The State Government abiding by the directions of the Hon'ble Court, granted the benefit of one notional increment to the employees superannuating on 30th of June, on the completion of preceding one year service, notified Government Resolution cited at Serial No. (9), above. The same carried a one-time financial burden of Rs.300 crores followed by a burden of Rs.150 crores annually on State Exchequer.
9. The financial implication of granting consequential benefits, to approximately 86000 pensioners superannuating on 30<sup>th</sup> June, from the date of retirement, entails more than Rs.1400 crores burden on State Exchequer followed by an annual burden of Rs.150 crores. Taking into account the cascading financial implications, the State Government also filed a review petition Misc. Civil App. No. 20361/2024 which was dismissed on 15.07.2024.
10. Evolving a uniform policy, after due amendment to the Civil Service Pay Rules after due consideration of the extreme financial implications and in order to ensure that reasonable benefits can be

accrue from 01.07.2023.

- (ii) This increment as per amended Rule 39 (1) will be granted for the purpose of calculating their gratuity and earned leave.
- (iii) Employees superannuating after 30th of June, 2023, shall be granted revision of pension after considering one increment on the date of retirement, and all benefits shall be given accordingly.

By order and in the name of the Governor of Gujarat,



(I.D. Chaudhary)

Deputy Secretary to Government.

To,

- Secretary to Hon'ble Governor, Raj Bhavan, Gandhinagar
- Principal Secretary to Hon'ble Chief Minister, Secretariat, Gandhinagar
- Personal Secretary to Hon'ble Ministers/Ministers of State, Secretariat, Gandhinagar
- Secretary, Gujarat Legislative Assembly, Secretariat, Gandhinagar
- Secretary, Gujarat Vigilance Commission, Gandhinagar
- Secretary, Gujarat Public Service Commission, Gandhinagar
- Secretary, Gujarat Subordinate Service Selection Board, Gandhinagar
- All Departments of Secretariat (HODs/All Head of Offices)
- Director of Pension and Provident Fund, Jivaraj Mehta Bhavan, Gandhinagar
- System Manager, Finance Department –For uploading website.
- Branch Select File (by letter)