

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 1476 OF 2014

1. David s/o Samuel Ganthur,
Age 60 years, Occu:- Pensioner,
"Suvarnkar Nagar"
Near Ramnagar Colony Jalna,
Tq. and Dist. Jalna.
2. Bhagwan s/o Janardhan Maghade,
Age 60 years, Occ. Pensioner,
R/o Ramnagar Police Colony,
H.No.271, New Jalna, District Jalna.
3. Bhagwan s/o Karbhari Mante,
Age 60 years, Occ:- Pensioner,
R/o Plot No.40, Agrasen Nagar Jalna,
Dist. Jalna.

... PETITIONERS

VERSUS

01. The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai-32.
02. The Director of General of Police,
Old Secretarial Culaba, Mumbai.
03. The District Superintendent of Police,
Jalna, Dist. Jalna.
04. The Deputy Superintendent of Police,
Head Quarter Jalna, District Jalna.

... RESPONDENTS

Mr. Kiran M. Nagarkar, Advocate for the Petitioner.
Mr.G.K.Thingale, AGP for the Respondents.

CORAM : **S. V. GANGAPURWALA and
V.L. ACHLIYA, JJ.**

DATE : 12th January, 2015.

ORAL JUDGMENT: (Per S. V. Gangapurwala, J.)

1 Rule. Rule made returnable forthwith. With the consent of the learned counsel appearing for the parties, the petition is taken up for final disposal.

2 Mr.Nagarkar, learned counsel for the Petitioners submits that the Petitioners were granted requisite pay scale vide order dated 16th November, 2010. However, the same was abruptly canceled on 7th October, 2011, without notice to the Petitioners and without hearing the Petitioners. The learned counsel further submits that the Government Resolution relied upon by the Respondents is already set aside by the Court. As such, reliance on the said Government Resolution is misplaced. The learned counsel further submits that the Maharashtra Administrative Tribunal has not considered the said aspect in its correct perspective and thereby arrived at an erroneous conclusion.

3 The learned AGP submits that the State considering all the aspects of the matter has rightly passed the order dated 7th October, 2011. No error is committed while passing the said order. Wrong pay scale was given to the Petitioners vide order dated 16th November, 2010.

4 We have considered the submissions canvassed by the learned counsel for the respective parties. The contention of the Petitioners that they were not heard while passing the impugned order is not rebutted. Even the impugned order does not suggest that the Petitioners at any point of time were given notice and heard.

5 The Apex Court in the case of **Bhagwan Shukla Vs. Union of India and others**, reported in **[AIR 1994 Supreme Court 2480]**, has specifically observed that when no opportunity is granted to show cause against the reduction of the basic pay, such an order is a violative of the principles of natural justice.

6 In light of the judgment of the Apex Court in the case of *Bhagwan Shukla* (supra), the impugned order which is passed without hearing the Petitioners cannot sustained. The said impugned order and the judgment of the Maharashtra Administrative Tribunal are quashed and set aside. The Respondent Authorities shall after hearing the Petitioners decide about the aspect of pay scale of the Petitioners afresh, expeditiously and preferably within six months from the date of this judgment.

7 Rule is accordingly made absolute. No costs.

ndm

[V.L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]