

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4866 OF 2004

STATE OF MAHARASHTRA & OTHERS
VERSUS
BAPU ABAJI VAIDYA

...

WITH

WP/4867/2004

STATE OF MAHARASHTRA & OTHERS
VERSUS
SHRI ANNARAO GANGARAM MULEY.

...

Advocate for Petitioner : Mr. S.D.Ghayal AGP

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CORAM : A.V. NIRGUDE & V.K. JADHAV, JJ.

Dated: October 20, 2015

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PER COURT :-

1. Both these petitions can be disposed of by this common judgment. Facts are almost similar.

2. The State of Maharashtra, by filing these petitions, is challenging the judgment and order of Maharashtra Administrative Tribunal, Bench at Aurangabad, in Original Application No.372/2000 and 361/1999. Both these respondents retired in the year 1997 and they were paid gratuity etc., as per the rules, but, the petitioner-employer deducted certain amount from their gratuity amount on the ground that, amount deserved to be recovered because certain audit objections were likely to be raised. The

Maharashtra Administrative Tribunal held these deductions from gratuity amount illegal mainly because such deductions at the fag end of the service tenure is not permissible. The learned Member of the Maharashtra Administrative Tribunal held that, since recovery of amount resulted into civil consequences and monetary loss to an employee, necessary procedure was required to be followed. We, however, uphold the judgment and order of the Maharashtra Administrative Tribunal because recovery was sought in anticipation of an audit objections likely to be raised in future. This approach of the authorities was entirely improper and therefore, the petitions would fail.

3. Writ Petitions are hereby dismissed. No costs.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)

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aaa/-