

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

RAST/29206/2014 IN WRIT PETITION NO. 135/2012

THE STATE OF MAHARASHTRA THROUGH SECRETARY,
FINANCE DEPARTMENT, MANTRALAYA, MUMBA
VERSUS
BABURAO SHIVRAJ JADHAV AND OTHERS

...

Shri P.M.Shah Senior Counsel a/w Mr. S.G.Karlekar AGP for
applicant-state.

Mr. V.G.Salgare advocate for petitioner in W.P.

Mr. Dilip Bankar Patil Advocate for respondents No.2 to 4 in Writ
Petition.

WITH

RAST/29219/2014 IN WP 8734/2011

THE STATE OF MAHARASHTRA THROUGH SECRETARY,
FINANCE DEPARTMENT, MANTRALAYA, MUMBA
VERSUS
SANTUKA SANDUJI DHABADE AND OTHERS.

...

Shri P.M.Shah Senior Counsel a/w Mr. S.G.Karlekar AGP for
applicant-state.

Mr. V.G.Salgare advocate for petitioner in W.P.

Mr. Dilip Bankar Patil Advocate for respondents No.2 to 4 in Writ
Petition.

WITH

RAST/29210/2014 IN WP 132/2012

THE STATE OF MAHARASHTRA THROUGH SECRETARY,
FINANCE DEPARTMENT, MANTRALAYA, MUMBA
VERSUS
RAJARAM @ RAJASAHEB BHAURAO KAWHALE

...

Shri P.M.Shah Senior Counsel a/w Mr. S.G.Karlekar AGP for
applicant-state.

Mr. V.G.Salgare advocate for petitioner in W.P.

Mr. Dilip Bankar Patil Advocate for respondents No.2 to 4 in Writ
Petition.

...

WITH

IN RAST/29199/2014 IN WP 8985/2011

THE STATE OF MAHARASHTRA THROUGH SECRETARY,
FINANCE DEPARTMENT, MANTRALAYA, MUMBA
VERSUS
SAVITRIBAI NARSAYYA GUDAPPA AND OTHERS.

...

Shri P.M.Shah Senior Counsel a/w Mr. S.G.Karlekar AGP for
applicant-state.

Mr. V.G.Salgare advocate for petitioner in W.P.

Mr. Dilip Bankar Patil Advocate for respondents No.2 to 4 in Writ
Petition.

WITH

RAST/29201/2014 IN WP 8908/2014

THE STATE OF MAHARASHTRA THROUGH SECRETARY,
FINANCE DEPARTMENT, MANTRALAYA, MUMBA
VERSUS
YAVARALKHAN MOD. OSMANALIKHAN AND OTHERS.

...

Shri P.M.Shah Senior Counsel a/w Mr. S.G.Karlekar AGP for
applicant-state.

Mr. V.G.Salgare advocate for petitioner in W.P.

Mr. Dilip Bankar Patil Advocate for respondents No.2 to 4 in Writ
Petition.

WITH

RAST/29215/2014 IN WP 3934/2013

THE STATE OF MAHARASHTRA THROUGH SECRETARY,
FINANCE DEPARTMENT, MANTRALAYA, MUMBA
VERSUS
RAMBILAS RAMGOPAL SONI AND OTHERS.

...

Shri P.M.Shah Senior Counsel a/w Mr. S.G.Karlekar AGP for
applicant-state.

Mr. N.D.Kendre Advocate for petitioner in writ petition.

...

CORAM : S.S. SHINDE & V.K. JADHAV, JJ.

Dated: January 16, 2015

...

PER COURT :-

1. Heard.

2. We have heard learned Senior Counsel Shri P.M.Shah, appearing for the review applicants. Perused the grounds taken in the Review Application, annexures thereto, the judgment under the review and also the judgments cited by the learned Senior Counsel appearing for the review applicants. Learned Senior counsel relied upon the Judgment of the Supreme Court in the case of **State of West Bengal Vs. West Bengal Government Pensioners Association reported in (2002) 2 SCC 179** and in particular paragraph No.20 thereof, and submits that the reason that some persons or a section of society would face hardship itself cannot be a ground for holding that the cut of date so fixed is ultra virus Article 14 of the Constitution of India. He further placed reliance in the case of **Sudhir Kumar Consul Vs. Allahabad Bank (2011) 3 SCC 486** and in particular paragraph Nos. 18,19,28 and 29 of the said judgment. He further submitted that, financial and economic implications are very relevant and germane for any policy decision touching the administration of the Government, at State as well as Central Government. It is submitted that financial constraints could be a valid ground for introducing a cut of date by introducing a pension scheme on revised basis. In support of this contention,

learned Senior Counsel pressed into service the judgments in the case of **State of Punjab and others Vs. Amar Nath Goyal and others** reported in **(2005) 6 SCC 754** and in particular paragraph Nos. 26,30,32,33,34 and 37 thereof, in the case of **State of Bihar and others Vs. Bihar Pensioners Samaj** reported in **(2006) 5 SCC 65** and in particular paragraph No.18 thereof, and in the case of **HEC Voluntary Retired Employees Welfare Society and Another Vs. Heavy Engineering Corporation Ltd., and others** and in particular paragraph No.12 thereof. It is further submitted that burden of proof as to the arbitrariness of the cut of date is on the litigant challenging the decision. In support of said contention, learned Senior Counsel relied upon the judgment of the Supreme Court in the case of **Orissa Power Transmission Corporation Ltd., Vs. Khageshwar Sundare and others** reported in **(2011) 8 SCC 269**, and in particular paragraph nos. 13 and 14 thereof. Learned Senior Counsel invited our attention to the grounds taken in the review applications and submits that, review applications may be allowed.

3. We have heard the learned Senior Counsel appearing for the Review Applicants, carefully perused the

grounds taken in the review applications and also the annexures thereto, and the judgments cited by the learned Senior Counsel appearing for the Review applicants. In our opinion, all these grounds were available to the review applicants when writ petitions were heard and disposed of by this Court. This Court relying upon the Judgment of the Supreme Court in the case of **Association of College and University Superannuated Teachers Vs. Union of India and others in Civil Appeal No.908/2013** and other judgments referred in the judgment under review, passed the final judgment and order under the review, and directed the State to comply the directions therein within three months from passing of the said judgment. In our opinion, there is no any error apparent on the face of record so as to review the judgment and order under review.

4. Upon perusal of averments in the application for review it appears that, the State Government did file review in the Supreme Court taking exception to the Judgment in the case of **Association of College and University Superannuated Teachers Vs. Union of India and others** (supra), however, same came to be rejected. Even curative petition filed by the State Government is rejected by the

Supreme Court. In our opinion, controversy which was raised in the Writ Petitions has been squarely answered by the ratio laid down in the case of **Association of College and University Superannuated Teachers Vs. Union of India and others** by the Hon'ble Supreme Court. No case is made out. Review Applications stand rejected.

(V.K. JADHAV, J.)

(S.S. SHINDE, J.)

...

aaa/-