

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

WRIT PETITION NO. 8714 OF 2014

Maharashtra State Zilla Parishad Civil
Engineering Assistant Union
Aurangabad and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri V. D. Sapkal, Advocate for Petitioners.
Shri G. K. Thigle, Addl.G.P. for Respondent Nos. 1 and 2.

**WITH
WRIT PETITION NO. 9742 OF 2014**

Maharashtra State Zilla Parishad Tracer
Engineering Employees Union and others.. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Amol S. Sawant, Advocate for Petitioners.
Shri G. K. Thigle, Addl.G.P. for Respondent Nos. 1 and 2.

**WITH
WRIT PETITION NO. 11714 OF 2014**

Dangal Dagdu Wagh and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Amol S. Sawant, Advocate for Petitioners.
Shri G. K. Thigle, Addl.G.P. for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.
DATE : 13TH JULY, 2015.**

PER COURT :

. Mr. Sapkal and Mr. Sawant, the learned counsel for respective petitioners submit that, petitioners are aggrieved by the Clause 4 of the circular dated 20th July, 2014, which directs the authorities to claim recovery in case the C.A.S. benefit or any other benefit has been wrongly given. Two petitions are filed by the union and one petition is filed by individual employees who have retired.

2. Mr. Thigle, the learned Additional Government Pleader submits that, the petitions are premature. As yet even notices are not issued to petitioners claiming recovery.

3. We have considered the submissions canvassed by learned counsel for respective parties.

4. In para 3 of the affidavit in reply filed by the respondent No. 1 it is stated as under :

"3. The deponent states and submits that, at the

outset, it is submitted that, the present Petition is pre-mature and no individual notices to any of the Petitioners have been issued as of now as per circular, the circular dated 28-7-2014 inter alia provides that the various cadres have been included for grant of benefits earlier to Government Resolution and in continuation of the same the impugned circular is issued."

5. In view of that, we need not enter into the merits of the contentions raised by petitioners.

6. It is made clear that, the respondents shall first issue notices to petitioners, in case any recovery is to be claimed. The respondents shall also keep in mind the judgment of the Apex Court in a case of **State of Punjab Vs. Rafiq Masih (White Washer) etc.** reported in **A.S.C.W 2015(4) page 334** which has laid down that the recovery cannot be claimed if an employee has retired or is on the verge of retirement. So also not to be claimed against Class III and Class IV employee.

7. In case any notices are issued to petitioners or its members, the petitioners are at liberty to assail the same. The writ petitions accordingly are disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]