

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

WRIT PETITION NO. 3706 OF 2016

Laxman s/o Narayanrao Karmalkar,
age 63 years, Occ. Retired as
Registrar, District Court, Beed,
R/o Beed

...Petitioner

VERSUS

1. State of Maharashtra,
Department of Law & Judiciary,
Mantralaya, Mumbai,
2. Accountant General,
through its Accounts Officer,
Pay Verification Unit
Department, Aurangabad,
3. Principal District Judge
(In administrative capacity),
District Court, Beed,
4. The Principal Secretary,
Law and Judiciary Department,
Mantralaya, Mumbai

...Respondents

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Shri G.L.Deshpande, advocate for petitioner
Shri S.K.Kadam, A.G.P. for respondent nos. 1, 2 and 4
Shri C.K.Shinde, advocate for respondent no.3

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WITH

WRIT PETITION NO. 3717 OF 2016

Bharat S/O Manohar Gonde,
age 59 years, Occ. Retired as
Assistant Superintendent,
Civil Court, Junior Division, Wadwani,
R/o Samarth Colony,
Pimpar Gavahan Road, Beed

...Petitioner

VERSUS

1. State of Maharashtra,
Department of Law & Judiciary,
Mantralaya, Mumbai,
2. Accountant General,
through its Accounts Officer,
Pay Verification Unit
Department, Aurangabad,
3. Accounts Department,
Civil Court, Wadwani,
4. The Principal Secretary,
Law and Judiciary Department,
Mantralaya, Mumbai
5. Civil Judge, Junior Division,
Wadwani
in Administrative capacity ...Respondents

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Shri G.L.Deshpande, advocate for petitioner
Shri V.H.Dighe, A.G.P. for respondent nos. 1, 2 and 4
Shri C.K.Shinde, advocate for respondent nos.3 and 5

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CORAM : S.S.SHINDE
AND
SANGITRAO S. PATIL, JJ.

DATE OF RESERVING
THE JUDGMENT : 10.6.2016

DATE OF PRONOUNCING
THE JUDGMENT : 21.6.2016

JUDGMENT (Per Santigrao S. Patil, J.)

Rule. Rule made returnable forthwith. With the consent of the learned counsel for the petitioners and the learned A.G.P., the Writ Petitions are taken up for final decision.

2. Common questions of law and facts are involved in these Writ Petitions. Hence they are being disposed of by this common judgment.

3. The petitioner namely Laxman Karmalkar in Writ Petition No. 3706 of 2016, who ultimately retired as the Registrar of the District Court, Beed, during his service tenure worked as the Assistant Superintendent in the Court of Civil Judge, Senior Division and also as the Superintendent on the establishment of the District Legal Services Authority.

4. The petitioner namely Bharat Gonde in Writ Petition No. 3717 of 2016 also had the occasion to

work as the Assistant Superintendent in the Court of Civil Judge, Senior Division during his service tenure.

5. It is the case of the petitioners that the posts of the Assistant Superintendent attached to the Court of Civil Judge, Senior Division and the Superintendent attached to the District Legal Services Authority have not been incorporated in the Government Resolution dated 20th October, 2011 and Government Circular, dated 8th March, 2013 whereunder the recommendations of Justice Shetti Commission were made applicable to the employees of the Trial Courts, and therefore, respondent no.2 Accountant General raised objection while verifying the pay of the petitioners that they are not entitled to get the benefit of the recommendations of Justice Shetti Commission in respect of the period during which they were serving as the Assistant Superintendents in the Courts of Civil Judge, Senior Division, as also when the petitioner Laxman Karmalkar was working

as the Superintendent on the establishment of District Legal Services Authority.

6. By these Writ Petitions, the petitioners have challenged the communications dated 29th April 2013 and 10th September, 2014 respectively made by respondent no.2 denying them the above mentioned benefit of the pay scales.

7. The learned counsel for the petitioners submits that the controversy involved in these Writ Petitions is no more res integra. In support of his contention, he cited the case of **Bhaskar s/o Niwartirao Jadhav (Writ Petition No. 11700 of 2015)**, decided by the Division Bench of this Court on 2nd March, 2016. He, therefore, prays that the Writ Petitions may be allowed, the impugned communications may be ordered to be set aside and the petitioners may be directed to extend the benefit of the pay scales as recommended by Justice Shetti Commission.

8. The learned Assistant Government Pleader filed affidavits-in-reply on behalf of respondent no.2 and opposed the petitions on the ground that the recommendations of Justice Shetti Commission have not been made applicable to the above mentioned posts held by the petitioners in view of the Government Resolution, dated 8th March, 2013. He, therefore, prays that the Writ Petitions may be dismissed.

9. In the case of **Bhaskar Niwartirao Jadhav** (supra) the following two issues were framed for consideration.

" (i) Whether the recommendations of Justice Shetty Commission would be applicable to the post of Assistant Superintendent, Civil Court, Senior Division ?

(ii) Whether the benefits as made available by Justice Shetty Commission can be extended to the employees working in the Office of the District Legal Services Authority ?

The said issues have been answered in the affirmative based on the judgments in the cases of **Amanulla Khan vs State of Maharashtra and Ors. (2016 (1) Mh.L.J. 723)** and **Pralhad Bhaurao Ghule and ors. Vs Government of Maharashtra and ors. Writ Petition No. 6297 of 2014**, decided on 14th August, 2014. It is not the case of the learned A.G.P. that the above referred decisions have been challenged by respondent nos.1 and 2 at any point of time. It seems that the findings recorded in the said judgments have got finality.

10. In the circumstances, we have no hesitation to apply the law laid down in the above referred judgments to the present petitions. We hold that the petitioners are entitled to get the benefit of the pay scales recommended by Justice Shetti Commission even in respect of the period when they were holding the posts of Assistant Superintendents attached to the Civil Courts, Senior Division or the Superintendent attached to the District Legal Services Authority.

11. In the result, we pass the following order.

(i) The Writ Petitions are allowed.

(ii) The impugned communications dated 29th April, 2013 and 10th September, 2014 issued by respondent no.2 are quashed and set aside.

(iii) The respondents are directed to extend the benefit of the pay scales to the petitioners as recommended by Justice Shetti Commission even in respect of the period during which the above referred posts were held by them during their service tenures and fix their pension or pay, as the case may be, accordingly.

(iv) The parties shall bear their own costs.

(v) With the above directions, Rule is made absolute accordingly and the Petitions are disposed of.

(SANGITRAO S. PATIL)
JUDGE

(S.S.SHINDE)
JUDGE