

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 12648 OF 2016

Omprakash s/o. Dashrathsingh Bais,
Age 59 years, Occu. Pensioner,
R/o. Nyaynagar, Maheshwari Bhavan,
Near Mangal Karyalaya, Kautha Road,
Vasarni, Tq. & Dist. Nanded.

....Petitioner.

Versus

1. The State of Maharashtra,
Department of Law and Judiciary,
Mantralaya, Mumbai.
2. The Accountant General
through Accounts Officer,
Pay verification department,
Aurangabad.
3. Accounts Department,
Civil Judge, Senior Division,
Basmath, Taluka Gangakhed,
District Parbhani.
4. The Principal Secretary,
Department of Law and Judiciary,
Mantralaya, Mumbai.
5. The Principal District & Sessions
Judge, Parbhani.
6. Civil Judge, Senior Division,
Basmath.

....Respondents.

Mr. P.S. Paranjape, Advocate for petitioner.

Mr. A.R. Borulkar, A.G.P. for respondent/State.

Mr. C.K. Shinde, Advocate for respondent Nos. 3, 5 &
6.

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**
DATED : March 3, 2017.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) Permission is granted to make correction in the surname of the petitioner in title clause. Amendment is to be carried out forthwith.

3) The petition is filed for setting aside the order dated 24.6.2016, by which recovery of Rs.2,90,842/- is ordered against the petitioner, who was working as Assistant Superintendent, by respondent No. 2.

4) It appears that the recovery was ordered due to some misconception and some guidelines given in Shetty Commission Report. There was misconception that if the Assistant Superintendent is working in the Court of Civil Judge, Junior Division, he is entitled to get the pay-scale higher than the Assistant Superintendent who will be working in the Court of Civil Judge, Senior Division. This point was

considered by this Court in Writ Petition No. 429/2015 [Amanulla Khan s/o. Amir Khan Pathan Vs. State of Maharashtra and Ors.] decided on 13.8.2015 and it was held that the anomaly is not possible and the Assistant Superintendent will be entitled to get the same pay scale irrespective of the fact that he is working in the Court of Civil Judge, Senior Division or Civil Judge, Junior Division. Similar observations are made by this Court in Writ Petition No. 12250/2016 [Venkat s/o. Ramrao More Vs. State of Maharashtra and Ors.] and other connected matters decided 15.12.2016. In the second matter, this Court had directed the respondents to refund the amount already recovered. As the point is no more *res-integra*, the petition is allowed. Aforesaid order, communication is hereby quashed and set aside. The amount, if any, recovered from the petitioner is to be refunded to him. Rule is made absolute in aforesaid terms.

[SANGITRAO S. PATIL, J.]

[T.V. NALAWADE, J.]