

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12331 OF 2018

1 Shivaji s/o Vitthal Marathe
age 84 years, occ. pensioner
r/o Icchadevi nagar, Hirapur Road,
Near Rudra Hanuman Mandir
Chalisgaon, Dist. Jalgaon

2 Rukhmabi w/o Madhavrao Patil
age 86 years, occ. pensioner
r/o M.G. Nagar, Netaji Chowk
Chaligaon, Dist. Jalgaon

Petitioners

Versus

1 The State of Maharashtra
Through its Secretary
Home Department, Mantralaya
Mumbai 400 032.

2 The Collector,
Freedom Fighter Cell,
Jalgaon

Respondents

Mr. Pathan Z.M., advocate for petitioners.
Mrs. G.L. Deshpande, A.G.P. for respondents.

**CORAM : R.M.BORDE &
MANGESH S. PATIL, JJ.
DATE : 1st November, 2018**

JUDGMENT : (Per R.M. Borde, J.)

1. Rule. Rule made returnable forthwith.
2. Heard finally at admission stage with the consent of learned counsel for the respective parties.

3. The issue raised in the instant petition is no more res-integra and is covered by the decision rendered by the Division Bench of this court at Nagpur in Writ Petition no. 1868 of 2005 and other companion matters decided on 14th June, 2017. The facts giving rise to the instant petition are also identical in all respects with the facts arising in the decided matters.

4. The petitioners are challenging the reduction in the amount of monthly pension of Rs. 3,000/- granted to them under the scheme of Swatantra Sainik Samman Pension, 1980 which has been brought down to Rs. 500/- p.m. The policy of the State Government adopted on 16.11.2004 directing reduction in the amount of pension was a matter of challenge in the aforesaid petition. The Division Bench of this Court at Nagpur directed quashment of the Circular/Order dated 16.11.2004 bearing No. Misc. 2004/CR-161/04/FFC1 issued by the General Administration Department of the State of Maharashtra and restrained the respondents from reducing or recovering any amount of pension payable or paid to the petitioner by the State Government. The Division Bench further directed respondents in the petition to pay to the petitioners all arrears of pension at the rate of Rs. 3,000/- per month with effect from 16.11.2004 after deducting the amount, if any, already paid. The directions were to be complied within a period of four months from the date of the order. In view of the directions, instant petition can also be disposed of by directing the respondents to pay pension amount @Rs.3,000/- per month from 30.12.2003 to the petitioners excluding amount already paid and further increments payable

under the policy. The petitioners shall be refunded the amount which has already been deducted, if any. The directions recorded above shall be complied within a period of four months from the date of this order.

5. Rule is accordingly made absolute. No costs.

MANGESH S. PATIL
JUDGE

R.M.BORDE
JUDGE

dyb