

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12423 OF 2018
(Bajirao Vasudeo Chaudhari Vs. The State of Maharashtra and
others)

Mr.Y.B.Bolkar, Advocate for the petitioner.
Mr.S.R.Yadav, AGP for respondent Nos. 1 and 2.
Mr.M.S.Sonawane, Advocate for respondent Nos. 3 and 4.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 02/11/2018

PER COURT :

1. I have heard the learned Advocates for the litigating sides and the learned AGP.

2. It is pointed out that in identical set of facts, this Court has dealt with **Writ Petition No.7871/2017 (Jayprakash Sahebrao Suryawanshi vs. The State of Maharashtra and others)** and a group of 184 writ petitions decided on 26.07.2018. It is, therefore, submitted that as all these cases are identical to the cases referred to in paragraphs 15 and 16 of the order dated 26.07.2018, same observations can be made applicable to this petition and the petitioner is agreeable to suffer the punishment of stoppage of one increment for one year, simplicitor.

3. The learned Advocate for the Petitioner submits that this Petitioner has retired from service. The amounts have been deducted from the salary / retiral benefits of this petitioner by treating the punishment to be stoppage of one increment with cumulative effect for one year. In identical set of facts, this Court has then passed the order on 09.08.2018 in **Civil Application No.9896/2018 (Panchashila Tarachand Wagh vs. The State of Maharashtra and others)** along with other Civil Applications, thereby, directing the Zilla Parishad to return the excess amounts within six weeks.

4. The learned Advocate for the Respondent / Zilla Parishad submits that he would not make any submission against the order of this Court dated 26.07.2018, which covers this petition in view of the observations set out in paragraphs 15 and 16. However, he is instructed to oppose any request for refunding of amounts since this petitioner had given an undertaking that he would not approach any court for challenging the punishment imposed on him.

5. I do not find that the said submission of the learned Advocate for the Zilla Parishad could be accepted as no citizen of this country can be precluded, on the strength of an undertaking, which is

invariably tendered under duress and coercion, from approaching any court. As such, the directions issued by this Court vide order dated 09.08.2018 would squarely be applicable to this petitioner as well.

6. In view of the above, this writ petition is partly allowed as under :-

- (a) The impugned order is converted into the order of punishment in the nature of stoppage of one increment for one year, simplicitor.
- (b) Consequentially, the Respondent/ Zilla Parishad shall calculate the amounts, which are to be recovered towards the fulfillment of the above stated punishment and shall refund the excess amounts to this Petitioner, within EIGHT WEEKS from today.
- (c) Since the Petitioner has retired from service and his pensionary / retiral benefits have been calculated by virtue of the order of punishment, which is now modified, that the Respondent/ Zilla Parishad would now re-calculate their retiral / pensionary benefits and take effective steps to process the papers within TWELVE WEEKS from today.

(Ravindra V.Ghuge, J.)