

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4523 OF 2017

The State of Maharashtra and ors. ...Petitioners
Versus
Dr. Anilkumar R. Tarale and ors. ...Respondents

WITH

WRIT PETITION (ST) NO. 9386 OF 2017

Dr. Gajanan P. Wadekar and ors. .. Petitioners
Versus
The State of Maharashtra and ors. ...Respondents

Mr. N.C. Walimbe, AGP for the State/Petitioner in WP 4523/2017 and Respondent-State in WPST 9386/2017.

Mr. Balasaheb R. Deshmukh for Respondent Nos.1,2 to 9, 11 to 16, 18 to 20, 22 to 26, 28 to 32, 34 to 40, 61, 62 and 63. in WP 4523/2017.

Mr. P.D. Paranjape i/b Mr. N.N. Pawar for Respondent Nos.42 to 53, 55, 56 , 58 and 59 in WP 4523/2017 and for the Petitioner in WP ST 9386/2017.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE : 05.07.2018.

ORAL JUDGMENT:

1] Heard learned counsel for the parties.

2] Rule in both the petitions. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

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3] Writ Petition No. 4523 of 2017 has been instituted by the State of Maharashtra and Writ Petition (St) No. 9386 of 2017 has been instituted some of the applicants in O.A. No. 879 of 2015 before the Maharashtra Administrative Tribunal (MAT), Mumbai. In both these petitions, the challenge is to the common judgment and order dated 11.07.2016 as well as the orders passed in the review petitions disposing of several O.As. Including O.A. No. 879 of 2015.

4] Mr. N.C. Walimbe, learned AGP for the State, which is the petitioner in Writ Petition No. 4523 of 2017 and Mr. Paranjape, learned counsel for the petitioners in Writ Petition (St) No. 9386 of 2017 placed on record the decision of the Division Bench of the Aurangabad Bench of this Court dated 16.04.2018 disposing of Writ Petition Nos. 2562 – 2564 of 2017, by which, the common judgment and order dated 18.10.2016 in O.A. No. 159 of 2010 and connected matters came to be disposed of by setting aside the said decision and remanding the matter for reconsideration before the MAT. They point out that the common judgment and order dated 18.10.2016 records that the applicants in O.A. Nos. 159 of 2010 and connected matters, are placed in

the same position as the applicants in O.A. No. 469 of 2012, 682 of 2013 and 879 of 2015, which O.As came to be disposed of by common judgment and order dated 11.07.2016 (the impugned judgment and order in the present petitions). On this basis, Mr. Walimbe and Mr.Paranjape submitted that it will be only appropriate if the common judgment and order dated 11.07.2016, which is the subject matter of the challenge in the present petitions is set aside and the matter is similarly similarly remanded to the MAT for reconsideration. They point out that this will ensure consistency apart from affording all parties full opportunity to putforth their respective contentions.

5] Mr. Balasaheb R. Deshmukh, learned counsel for respondent Nos.1,2 to 9, 11 to 16, 18 to 20, 22 to 26, 28 to 32, 34 to 40, 61, 62 and 63, states that in principle, the respondents only represents, will have no objection to setting aside of the common judgment and order dated 11.07.2016 (impugned judgment and order). However, he submits that notwithstanding such setting aside, this court, ought to direct the State to implement the relief granted by the MAT to the respondents, in the said common judgment

and order. He submits that in fact, this relief, is much less than the relief which the respondents are in fact entitled to. Therefore, he submits that with such a direction these petitions can be disposed of as submitted by Mr. Walimbe and Mr. Paranjape.

6] For the sake of consistency, we also agree that it would appropriate if the impugned judgment and order is set aside and the matter is remanded to the MAT for reconsideration of all O.A.s. However, we are unable to agree with Mr. Deshmukh's suggestion that notwithstanding the setting aside of the common judgment and order, we should nevertheless direct the petitioners - State to grant the respondents benefits as directed by the MAT in the impugned judgment and order. Such a direction will amount to a contradiction. However, we do not wish to foreclose any contentions of any parties including, the contentions of Mr. Deshmukh, as now made before us in these petitions.

7] Therefore, following the course adopted by the Aurangabad Bench in its order dated 16.04.2018 and in the light of joint request made by Mr. Walimbe and

Mr.Paranjape, we set aside the common judgment and order and remand the O.As. for consideration before the MAT. We clarify that we have not examined any contentions of any of the parties and therefore, all contentions of all the parties are expressly kept open for consideration by the MAT in the course of remand order.

8] Rule in each of the petition is accordingly disposed of in the aforesaid terms. There shall, however, be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)