

WRIT PETITION NO.2646 OF 2017
AND
CIVIL APPLICATION NO. 8827 OF 2019

VERSUS

The State of Maharashtra and others ...Respondents

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Mr. G. K. Kshirsagar, Advocate for the petitioners - applicants
Mr. P. N. Kutti, Assistant Government Pleader for respondents
no. 1 to 3
Mr. C. D. Biradar, Advocate for respondents no. 4 to 6

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**[CORAM : SUNIL P. DESHMUKH AND
S. M. GAVHANE, JJ.]**

DATE : 14th October, 2019

ORDER :

1. Heard learned counsel for the appearing parties finally by consent.
2. The petitioners are awarded with certificate of excellency in work and they had been given advance increments as an impetus to good performance in service during the period of 2006-2008. The benefit which accrued had also been paid to them.

3. Several division benches of this court had occasion to deal with similar writ petitions as the present case and by the orders therein the court has restrained the respondents from recovering the benefit already paid to the petitioners. One of such orders has been referred to by the learned counsel for the petitioners in the case of *Sampat Raosaheb Shinde and others V/s. The State of Maharashtra and others*, passed on 24th June, 2019 in writ petition bearing no. 7535 of 2019, wherein division bench has observed in paragraphs no. 1, 2 and 3, reading, thus,

“1. It is submitted that petitioners in this writ petition are awarded certificate of excellent work and advance increments in the year 2006 to 2007. They were given benefit of advance increments and same was also paid. However, how for some of the petitioners recovery is claimed and for some of the petitioners benefit is not extended. If the petitioners are already granted certificate of excellent work in the year 2006 to 2007, then same cannot be withdrawn retrospectively on the basis of subsequent Government Resolution.

2. The same view was taken by us in writ petition no. 1954 of 2018 with other connected writ petitions under order dated 25.01.2019.

3. The Government Resolution dated 24.08.2017 will have prospective effect and not retrospective and in that case if the benefit was accorded to petitioners of excellent work in the year 2006 to 2007, then same shall not be withdrawn and if any recovery is made pursuant to the same, same shall be refunded to the petitioners. ”

4. In the light of above, we deem it appropriate that in present writ petition as well, the benefit of advance increments paid to petitioners for excellent work for the period 2006 to 2008,

shall not be recovered from the petitioners and, in case, recovery is made from them, same be refunded to them.

5. Writ petition is accordingly disposed of.

6. In view of disposal of present writ petition, civil application no. 8827 of 2019, also stands disposed of.

[S. M. GAVHANE]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

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