

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5309 OF 2018

Dr. Pralhad Dattarao Pawar & anr. Petitioners

Versus

The State of Maharashtra and others. Respondents

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Mr. G.G. Kadam, Advocate for the petitioners.
Mr. V.M. Kagne, A.G.P. for the State/respondent Nos.1 to 5.
Mr. S.B. Pulkundwar, Advocate for respondent No.6.

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CORAM : S.V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.

DATE : 25 November 2019.

ORDER :-

. The petitioner is challenging the recovery claimed from him after his retirement and seeking refund of the amount.

2. There is a dispute as to whether the petitioner was Class-II or Class-III. We may not enter into the same at this stage.

3. One of the contentions is that the impugned order claiming recovery is passed without notice to the petitioner.

4. It is trite that when any order adverse to the interest of the parties is to be passed, the same shall not be passed without notice to the party.

5. In the present case from the retiral benefits directly amount is deducted without giving any notice to the petitioner. The said course could not have been adopted.

6. On the ground that the impugned order of recovery is passed without notice to the petitioner, we set aside the said order. In case respondents want to proceed with recovery, then they have to issue notice to the petitioner and obtain his say and thereafter only pass further orders. In case the respondents do not take further course of action within a period of three months, then the respondents shall refund the amount to the petitioner.

7. The Writ Petition is disposed of. No costs.

(AVINASH G. GHAROTE, J.)

(S.V. GANGAPURWALA, J.)