

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2766/2018

Ashok s/o Shri Sarjuprasad Shrivas

...Versus...

**State of Maharashtra through the Principal Secretary, Medical Education and
Drugs Department, Mantralaya, Mumbai 400 032 and others**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N.P. Lambat, Counsel for petitioner
Shri S.M. Ukey, Addl. G.P. for respondent nos.1 to 4
Shri H.V. Thakur, Counsel for respondent no.5

**CORAM : *PRADEEP NANDRAJOG, C.J. &
R.K. DESHPANDE, J.***

DATE : *AUGUST 16, 2019*

P.C. :-

1. Reply has not been filed to the writ petition notwithstanding Counsel for the respondents waiving notice as recorded in the order dated May 05, 2018. It was expected that reply would be filed so that the matter could see for final hearing.
2. Grievance of the writ petitioner is that while in service on earning promotion to the post of Senior Head Clerk (Storekeeper) his pay was fixed in the scale ₹5000-8000 and when 6th Pay Commission recommendations were implemented he was placed in Pay Band -II with Grade Pay ₹4200/-. He superannuated from service and pension was

fixed, keeping in view the last pay drawn in P.B.-II with Grade Pay ₹4200/-. All of a sudden, by taking a view that the petitioner was wrongly placed in the pay scale ₹5000 - 8000, the pay scale applicable being ₹3050 - 4590, with respect to the 6th Pay Commission recommendations, a view taken was that replacement would be in P.B.-I with Grade Pay ₹1900/-. Recovery was sought to be effected.

3. The petitioner has pleaded that the impugned communication dated 19/04/2018 was not preceded by any show-cause notice.

4. In that view of the matter, the writ petition is disposed of quashing the impugned order dated 19/04/2018. The respondents would be entitled to issue a show-cause notice to the petitioner mentioning therein the facts and the grounds on which they propose to hold that the petitioner's salary was wrongly fixed in pay scale ₹5000-8000 when recommendations of 6th Pay Commission were implemented.

5. The response of the petitioner would be considered and a reasoned decision would be taken. If the petitioner relies upon case law, the same shall also be taken into consideration.

6. Needless to say that if the order passed is adverse to the petitioner he would be entitled to approach this Court.

R.K. DESHPANDE, J.

CHIEF JUSTICE