

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 15544 OF 2019

Motiram Bhagwanrao Sonwane .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Yuwaraj R. Barhate, Advocate for the Petitioner.

Shri A. R. Kale, A.G.P. for Respondent Nos. 1 and 2.

Shri S. B. Ghute, Advocate for Respondent Nos. 3 to 8.

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 02ND JANUARY, 2020.

FINAL ORDER :

. We have heard learned counsel for the petitioner and learned advocates for respondents. Learned counsel for the petitioner and respondents do not dispute that the petitioner is similarly situated as the petitioners in Writ petition No.4616/2016 and Writ petition No.4624 of 2016 decided under the Judgment dated 22.12.2017.

2. In the light of that and for the reasons recorded in the said Judgment, we follow the same course .

3. The step taken by the respondents for re-fixation of the pay scale of the petitioner after about 13 years or more without hearing petitioner and thereafter recovery and actually

deducting it from the gratuity cannot be upheld. As per the procedure laid down in Rule 134(a) of the Maharashtra Civil Service (Pension) Rules, 1982, opportunity ought to have been given to the petitioner herein and therefore, now we would be inclined to give an opportunity to the respondents to re-fix the pay of the petitioner after giving an opportunity. This is a fit case where the writ jurisdiction of this Court under Article 226 and 227 deserves to be invoked. For the aforesaid reasons writ petition deserves to be allowed and it is accordingly allowed.

4. The respondents are directed to repay the amount to the petitioner that has been recovered within a period of six months. The respondents are at liberty to re-fix the pay of the petitioner after giving opportunity to the petitioner.

5. In view of the above, the writ petition is disposed of. No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

bsb/Jan. 20