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

33 WRIT PETITION NO.9291 OF 2018

**DURGADAS RAMRAO AUNDHEKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Mr Avinash S. Deshmukh, Advocate for petitioner;
Smt. V. N. Patil Jadhav, A.G.P. for respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
AVINASH G. GHAROTE, JJ.**

DATE : 21st June, 2021

PER COURT:

1. After the hearing in this matter progressed and upon considering the strenuous submissions of the learned advocate for the petitioner and learned A.G.P. for respondents, we find that the petitioner was appointed, upon being nominated by a freedom fighter, on 26/06/1991. He was removed from service on 16/08/2004 having put in about 13 years in employment. He has been out of employment for 17 years. His removal from service was on account of an incorrect statement made by the freedom fighter in the nomination form that the petitioner was his nephew (sister's son). It eventually turned out that he was a

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cousin sister's son, which was impermissible under the Government Resolution dated 10/01/1985.

2. The learned A.G.P. makes a statement in the light of a communication received by her, dated 21/06/2021, copy of which is taken on record and marked as 'X' for identification, that respondent No.3 has not initiated recovery proceedings in the last 17 years.

3. On these premises, considering that no recovery proceedings have been initiated for 17 years and as the petitioner had worked for a period of 13 years, for which he had earned commensurate salary, there is no question of excess payment and hence there cannot be any recovery of salary paid for work already performed and that too, after 17 years.

4. The learned Advocate for the petitioner submits on instructions, that the petitioner desires to withdraw this petition since this Court is protecting him as regards recovery of the salary paid. He intends to move an application to the State Government/appropriate authority for

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seeking compassionate pension under the Maharashtra Civil Services (Pension) Rules, 1982.

5. In view of the above and in the light of our observations that there cannot be any recovery, this petition is disposed off.

(AVINASH G. GHAROTE, J.)

(RAVINDRA V. GHUGE, J.)

sjk