

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4533 OF 2021

Sudhir S/o Namdev Varude and Ors. ...Petitioners

Versus

The State of Maharashtra & Anr ...Respondents

WITH

WRIT PETITION NO. 4535 OF 2021

Dhanaji S/o Appasaheb Patil and Ors ...Petitioners

Versus

The State of Maharashtra & Anr ...Respondents

WITH

WRIT PETITION NO. 4534 OF 2021

Jatin S/o Radhakrishna Thakur
and Ors ...Petitioners

Versus

The State of Maharashtra & Anr ...Respondents

Mr. Sandeep B. Sontakke for the Petitioners.

Dr. Uday P. Warunjikar for Respondent No. 2 – Z.P.,
Satara in WP/4533/2021.

Ms. M.S. Bane, AGP, for the Respondent – State in all
Petitions.

CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.

DATE : DECEMBER 06, 2021.

PER COURT :

1. At the outset, it would not be out of place to state here that in all these Petitions an identical/common issue is involved, as such, the Petitions are tagged together and accordingly are taken up for hearing and disposal at the admission stage. By consent of the parties, Writ Petition No. 4533 of 2021 is taken up as lead Petition.

2. By order dated 14th October, 2021, notice was issued to the Respondents and learned AGP waived notice for Respondent – State. Learned Counsel for Petitioners submitted that notices were served on Respondent – Zilla Parishad through Chief Executive Officer in all these Petitions. Learned Counsel for Petitioners tendered across the bar copy of track consignment in support of his submissions, the same is taken on record and marked 'X' for identification.

3. Considering the fact that already this Court has taken a view in so far as issue involved in the Petitions and by issuing notice an opportunity was granted to Respondents. The material placed on record show that the Respondents are duly served and in spite of the service of notice, the Respondents have chosen

not to appear before this Court either representative or Counsel of their choice. Hence, we see no reason to wait for Respondents, in view of the issue involved in the present Petitions and the orders passed by the Courts are concerned.

4. Petitioners were appointed in the services of Respondent No. 2 – Zilla Parishad, Satara on various posts such as, Junior Engineer, Tracer, Extension Officer Stat, Extension Officer Agriculture, Health Supervisor, Gramsevak, Sr. Assistant, Jr. Assistant, Jr. Clerk, Jr. Draftsman, Pharmacist, Health Supervisor, MPW, Health Assistant, Arogya Sevika, ANM, Parichar, Midwife, Driver, Peon and Sweeper and were discharging their duties. The service career of the Petitioners were clean and unblemished and considering the services rendered by the Petitioners, Petitioners were awarded the certificate of excellent work rendered by them and benefit in the nature of additional increment was granted to the Petitioners by way of certain Government Resolutions and orders. The copies of the appointment orders and the orders granting benefits to the Petitioners are also placed on record. The State

Government issued Government Resolution dated 24th August, 2017 and decided not to grant benefit for further period. The reason assigned in the Government Resolution is that benefit of increment is granted as an incentive but the granting such benefit in advance would be not feasible. The grievance raised in the Petition is the Respondents in general and the Respondent – Zilla Parishad in particular by taking recourse to the Government Resolution dated 24.08.2017 stopped granting benefits to the Petitioners to which they were entitled to by giving retrospective effect to the said Government Resolution.

5. Learned Counsel for the Petitioners submitted that the issue is no more *res integra* and the same is set at rest. In view of the order passed by the Division Bench of this Court dated 06.06.2019 at Aurangabad Bench in bunch of Writ Petitions. The copy of said order is also placed on record at Exhibit 'G' page 88 to the Petition. Learned Counsel for the Petitioners further submitted that similar view is adopted in certain identical matters in certain other Petitions involving the identical issue. Our attention

was invited to one of such order dated 16.09.2021 in Writ Petition No. 51 of 2021 to which one of us is party (Justice Prasanna B. Varale, J).

6. Learned Counsel Dr. Warunjikar appearing for Respondent – Zilla Parishad, Satara submits that Zilla Parishad is not taking any decision on its own in so far as the benefits to be awarded to its employees and follows the directions flowed from various Government Resolutions. It was submitted that by way of one of the communication it was informed to Zilla Parishad that the benefits were awarded only to the employees of State Government and employees of the Zilla Parishad not entitled for those benefits.

7. This submissions is countered by learned Counsel for Petitioners by submitting this Court that some of the Petitions were filed before Aurangabad Bench at the instance of Zilla Parishad employees and view of the bench that the Government Resolution dated 24th August, 2017 would have prospective effect and not retrospective was made available not only to the State Government employees but also to Zilla Parishad employees who have filed the Petitions before the

Aurangabad Bench.

8. Considering the facts and above referred submissions, in our opinion, the Counsel for Petitioners made out the case for allowing the Petitions. Hence, we pass the following order:

A) Writ Petitions are allowed.

B) Government Resolution dated 24th August, 2017 will have prospective effect and not retrospective and in case, if any benefits are accorded to the Petitioners of said Government Resolution, the Respondent — Zilla Parishad, Satara, Thane, Palghar & Sindhudurg are directed not to withdraw such benefits and if any recovery pursuant to the said Government Resolution is made, shall be refunded to the Petitioners.

C) With these directions, Writ Petitions are disposed of.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)