

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7725 OF 2021

1. Limbaji Sakharamji Naikwade
Age : 59years, occ : pensioner
R/o B.D.O. Colony, Jail Road,
Parbhani, District Parbhani.
2. Sheshrao Dhondji Chavan
Age : 62 years, occ : pensioner
R/o Basmat Road, Shivram Nagar,
Parbhani.
3. Vitthal Sahebrao Ghoghare
Age : 55 years, occ : service
R/o At Post Suppa, Gangakhed,
District Parbhani.
4. Md Rahimur Raheman Md
Habibur Raheman
Age : 52 years, occ : service
R/o Itlapur Mohalla, Nawa Mondha
Road, Khadrabad Plot, Parbhani,
District Parbhani.
5. Kondiba Rangnathrao Waghmare
Age : 69years, occ : Pensioner
R/o Lohgaon Road, Sakhala Plot,
Parbhani.
6. Mirza Azhar Baig Mirza Mansoor Baig
Age : 56 years, occ : service
R/o Darga Road, Ganesh Nagar,
Parbhani.

7. Dattu Kerba Karewad
Age : 59 years, occ : pensioner
R/o Janpriya Colony, Karegaon
Road, In front of Aadarsh vidyalaya,
Parbhani.
8. Mohan Udaram Pardeshi
Age : 57 years, occ : service
R/o Manshanti Niwas, Arogya Gruh
Nirman Sanstha, Arogya Nagar,
Parbhani.
9. Vyankati Rohidas Shinde
Age : 60 years, occ : pensioner
R/o Super Market Road, Lahuji
Nagar, Near Lahuji Putala,
Parbhani.
10. Nileshchandra Babarao Bokan
Age : 49 years, occ : service
R/o Parbhani.
11. Prabhakar Hanmantrao Shankhapale
Age : 58 years, occ : pensioner
R/o Naikwadi Galli, Biloli,
District Nanded.
12. Apparao Abarao Raimale
Age : 50 years, occ : service
In front of Khandoba Mandir,
Khandoba Bazar, Parbhani.

13. Shaikh Moin Shaikh Sardar
Age : 59 years, occ : pensioner
R/o Yusuf Colony, Parbhani.
 14. Sunita Sambhaji Chavale
Age : 50 years, occ : service
R/o 45/112, Pardeshwar Temple
Road, Laxmi Nagar, Parbhani.
 15. Sanjay Baliram Dhabe
Age : 55 years, occ : service
R/o Varsha Niwas, Vajirabad Plot,
Parbhani.
 16. Raziyabi Gulab Khan
Age : 65 years, occ : pensioner
R/o Station Road, Near Padala
Function Hall, Wakil Colony,
Parbhani.
 17. Sunilkumar Pralhadrao Kulkarni
Age : 58 years, occ : pensioner
R/o 208, M.P. Niwas, Karegaon
Road, Near Krishna Mandir, Arogya
Nagar, Parbhani.
 18. Vilas Shankarrao Saranaik
Age : 53 years, occ : service
R/o A/p Pachalegaon, Parbhani.
- Petitioners
- Versus
1. The State of Maharashtra
Through it's Secretary
General Administrative Dept
and Rural Development Dept.,
Mantralaya, Mumbai

2. The Chief Executive Officer,
Zilla Parishad Parbhani,
Parbhani.

Respondents

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Mr. Sandeep B. Sontakke, Advocate for the petitioners.
Mr. P.S. Patil, A.G.P. for respondent No.1 – State.
Mr. Vivek V. Bhavthankar, Advocate for respondent No.2.

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CORAM : C.V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.

DATE : 14 JULY 2022

JUDGMENT (PER SANDIPKUMAR C. MORE, J.) :

Rule made returnable forthwith. Learned Counsel for the parties waive service for respective respondents. Heard finally by consent of the parties.

2. The petitioners are working on various posts namely 'Assistant', 'Steno', 'Driver' and 'Peon' in Parbhani Zilla Parishad. Under the orders dated 09.09.2008, 18.05.2009, 10.01.2008 and 12.11.2007, respondent No. 2 has granted monetary benefits to all these petitioners of one or two additional increments under the scheme framed by Government of Maharashtra for grant of additional / advance increments to the Zilla Parishad employees for outstanding / excellent work, which had come into force under Government Resolution dated 20.06.1989. Under the said Scheme, the Zilla Parishad employees who have done excellent / outstanding work continuously for five years, are entitled for two

additional increments, whereas those who have done excellent / outstanding work for three years, are entitled for one additional increment. Accordingly, the petitioners are granted such one or two additional increments from the date of above-mentioned orders.

3. However, when Sixth Pay Commission pay-scales were made applicable to the petitioners in the year 2009 w.e.f. 01.01.2006, the petitioner had already been granted the above-said one or two additional increments w.e.f. 1.10.2006 and 1.10.2007. Thereafter the Government of Maharashtra brought into force another Government Resolution dated 24.08.2017 by which it had decided to withdraw the benefit of aforesaid grant of one or two additional increments. Not only this, but the Government also took decision to apply the said Government Resolution dated 24.08.2017 retrospectively and also took decision of recovery of the earlier monetary benefits granted to the petitioners. Hence, the petitioners are constrained to file this writ petition.

4. The respondent No. 2, by way of affidavit-in-reply dated 14.07.2021, opposed the petition and contended that since the State has taken a policy decision under the Government Resolution dated 24.08.2017, same needs to be followed. As such, respondent No. 2 prayed for dismissal of the present writ petition.

5. The main dispute for consideration in the present petition is, whether the action on the part of respondent No. 2 of withdrawing the earlier benefits of one or two additional increments granted to the petitioners retrospectively is legal and proper.

6. The learned Counsel for the petitioners strenuously argued that this issue is no longer *res integra* in view of several decisions of this Court either at Principal Seat, Bombay or Aurangabad Bench, whereby it has been held that the Government Resolution dated 24.08.2017 is prospective in nature and the earlier benefits granted to the petitioners, cannot be withdrawn by giving retrospective effect to the same.

7. This Court at Aurangabad Bench has passed an order in bunch of petitions bearing Writ Petition No. 14950 of 2017 and other connected matters and made following observations :

"1. It is submitted that, petitioners in these Writ Petitions are awarded certificate of excellent work and advance increments in the year 2006 to 2008. They are given benefit of advance increments and same was also paid. However, now for some of the petitioners recovery is claimed and for some of the petitioners benefit is not extended. If the petitioners are already granted certificate of excellent work in the year 2006, 2007 and 2008, then same cannot be withdrawn retrospectively on the basis of subsequent government resolution.

2. The same view was taken by us in Writ Petition No. 1954 of 2018 with other connected Writ Petitions under order dated 25.01.2019.

3. The government resolution dated 24.08.2017 will have prospective effect and not retrospective and in that case benefit that was accorded to petitioners of excellent work in the year 2006, 2007 and 2008, shall not be withdrawn and if any recovery is made pursuant to the same, same shall be refunded to the petitioners.

4. In the light of the above, Writ Petitions are disposed of. No cost."

This decision has been followed by this Court at Principal Seat, Bombay in various matters bearing Writ Petition No. 12531 of 2019 and others, Writ Petition 4050 of 2017 and Writ Petition (Stamp) No. 1438 of 2021. As such, it is clearly held earlier by this Court in the aforesaid petitions that benefit granted to the other similarly situated employees awarding one or two additional increments for their excellent work, cannot be retrospectively withdrawn under the Government Resolution dated 24.08.2017. Thus, there is no need to take different view in respect of the present petitioners.

8. In such circumstances, the petition is allowed. The

benefit of one or two advance increments, if any, granted to the petitioners for excellent / outstanding work under the orders dated 12.11.2007, 10.01.2008, 09.09.2008 and 18.05.2009 shall not be withdrawn, placing reliance on the Government Resolution dated 24.08.2017. The amount, if any, recovered on account of withdrawal of any such benefit, shall be refunded to the petitioners. The respondents are further directed to pay / release monetary benefits arising out of grant of such additional increments, if any, by fixation of their pay-scales, if not already done.

Rule is made absolute in the aforesaid terms, with no order as to costs.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.