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

909 WRIT PETITION NO.6838 OF 2022

RAGHUNATH GABAJI WAWDHANE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

AND

910 WRIT PETITION NO.6854 OF 2022

BALIRAM DHANU VISPUTE
VERSUS
THE STATE OF MAHARASHTRA THROUGH IT
SECRETARY AND OTHERS

AND

911 WRIT PETITION NO.6855 OF 2022

SHRIKANT PANDURANGBUWA GOSAVI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

AND

912 WRIT PETITION NO.6872 OF 2022

MAHAMMAD MUJIB MAHAMMAD DAUD KAZI
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

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Mr S. K. Mathpati, Advocate for petitioners;
Mr P. S. Patil, A.G.P. for respondents/State
Mr U. B. Bondar, Advocate for respondent Nos.4 to 6 in
WP/6838/2022
Mrs Renuka Ghule, Advocate for respondent Nos.4 & 5 in
WP/6855/2022

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**CORAM : RAVINDRA V. GHUGE
AND
ARUN R. PEDNEKER, JJ.**

DATE : 28th July, 2022

PER COURT:

1. The petitioners in all these petitions are identically placed. By way of a specimen, we are reproducing prayer clause (B) from the first petition i.e. Writ Petition No.6838/2022, which reads as under :-

(B) The G.R. dated 24th August, 2017 may kindly be quashed & set aside to the extent of denial of benefits of one or two advance increments to the employees who has been given benefits of sixth pay commission it means its applicability of retrospective in nature by issuing writ of certiorari or writ of mandamus or any other appropriate writ or order as the case may be.”

2. Issue notice to the respondents, returnable forthwith. The learned A.G.P. waives service of notice on behalf of respondents/ State Authorities. The learned Advocate Shri Bondar waives service of notice on behalf of respondents Nos.4 to 6 in Writ Petition No.6838/2022 and the learned Advocate Mrs Ghule waives service of notice on behalf of respondent Nos.4 and 5 in Writ Petition No.6855/2022.

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3. The learned Advocates Mr Bondar and Mrs Ghule representing respondents, submit on instructions that, considering the order passed at the Principal Seat, dated 04/05/2021, in Writ Petition (St.) No.1438/2021, filed by Sanjiv R. Patil and others Vs. State of Maharashtra and others, and dated 22/10/2020, passed at the Principal Seat in Writ Petition No.4050/2017, filed by Uday J. Godave and others Vs. State of Maharashtra and others and similar other several orders, this petition may be disposed off in the light of the directions issued in the said orders.

4. In Sanjiv R. Patil (supra), it has been held in paragraph Nos.4 to 6 as under :-

“4. The Petitioners are employees of Zilla Parishad, Sangli. Pursuant to the G.Rs. dated 11th February 1974 and 20th June 1989, the Petitioners, in view of their outstanding work, were granted either one or two advance increments as on 1st October 2006, 1st October 2007 and 1st October 2008. The Petitioners state that the Respondent – State, however, by Circular dated 3rd July 2009 instructed to fix the pay in a revised pay scale as per the recommendation of Sixth Pay Commission without taking into consideration advance increments granted on 1st October 2006, 1st October 2007 and 1st October 2008. It is stated that the Respondent – State, then issued the G.R. dated 24th August 2017 and reiterated the instructions issued by Circular dated 3rd July 2009. The contention is accrued

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and vested rights of the Petitioners cannot be taken away by the impugned G.R.

5. *This Court (Aurangabad bench) in Writ Petition No. 14797 of 2017 (Ganpat Vitthal Dapute and Ors vs. The State of Maharashtra and ors) vide its order dated 11th June 2019, held that the G.R. dated 24th August 2017 will have prospective effect. This Court, accordingly, held that the benefit of advance increments granted as per the policy of the Government prevailing at that time, the same would not be withdrawn on the basis of subsequent G.R. dated 24th August 2017. We have taken the similar view in Writ Petition No. 4050 of 2018 decided on 22nd October 2020.*

6. *The learned counsel for respondent No.4 submits that respondent No.1 had by communication dated 4.12.2020 directed them to seek review of the order passed by this court in aforesaid writ petition. However, in absence of any interim stay order, we do not see any reason to refuse identical relief to the petitioners. In the result, we pass the following order.*

- a. The Respondents are directed to accord the benefit of advance increments granted to the Petitioners as per the policy of the Respondent – State dated 11th February 1974 and 20th June 1989 in the revise Sixth Pay Scale without giving any effect of subsequent Circular dated 3rd July 2009 and G.R. dated 24th August 2017.*
- b. Recovery, if any, made pursuant to the Circular dated 3rd July 2009 or G.R. dated 24th August 2017 from the Petitioners shall be refunded to them.*
- c. Rule made absolute accordingly.*
- d. No order as to costs.”*

5. In Uday J. Godave (supra), it has been held in paragraph No.6 as under :-

“6. This Court (Aurangabad bench) in Writ Petition No. 14797 of 2017 (Ganpat Vitthal Dapute and Ors vs. The State of Maharashtra and ors) vide its order dated 11th June 2019, held that the G.R. dated 24th August 2017 will have prospective effect. This Court, accordingly, held that the benefit of advance increments granted as per the policy of the Government prevailing at that time, the same would not be withdrawn on the basis of subsequent G.R. dated 24th August 2017. Considering the fact that the Respondent – State has not yet taken any policy decision with regard to issue in question, we are constrained to pass similar order. In the result, we pass the following order.

- a. The Respondents are directed to accord the benefit of advance increments granted to the Petitioners as per the policy of the Respondent – State dated 11th February 1974 and 31st October 1989 in the revise Sixth Pay Scale without giving any effect of subsequent Circular dated 3rd July 2009 and G.R. dated 24th August 2017.*
- b. Recovery, if any, made pursuant to the Circular dated 3rd July 2009 or G.R. dated 24th August 2017 from the Petitioners shall be refunded to them.*
- c. Rule made absolute accordingly.*
- d. No order as to costs.*
- e. This order will be digitally signed by the Private Secretary of this Court. All concerned*

will ct on a digitally signed copy of this order.”

6. The learned Advocate representing the Zilla Parishad, submits that the Zilla Parishad has filed review applications against similar orders.

7. The order of this Court dated 18/07/2022 was passed placing reliance on the Judgment delivered on 01/04/2021 in Writ Petition No.12531/2019, filed by Raosaheb Shripati Desai and others Vs. State of Maharashtra and group of matters. The said Judgment dated 01/04/2021 was carried in Special Leave Petition (Civ.) No.10789/2022. By an order dated 20/07/2022, the Hon'ble Supreme Court (three Judges Bench) dismissed the Special Leave Petition.

8. Considering the above, we deem it appropriate to direct the petitioners to submit an affidavit undertaking to the Chief Executive Officer, Zilla Parishad, stating therein that, if the review applications filed by the Zilla Parishad, in the matters in which similar orders have been passed, are allowed, the petitioners would refund the entire benefits that they would receive on account of our order being passed today, within four weeks from the date of such order.

9. With the above directions, these petitions are disposed off, by directing the Zilla Parishad, to accord the benefit of advance increments to the petitioners, as per the policy of the respondents/ State, dated 11/02/1974 and 31/10/1989 in the revised 6th Pay-scale, without giving effect to the subsequent Circular dated 03/07/2009 and the Government Resolution dated 24/08/2017. Since such payment was not made earlier, there is no question of recovery. Needless to state, such payment would be made after the petitioners tender an affidavit undertaking to the Chief Executive Officer, Zilla Parishad.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)

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