

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
WRIT PETITION NO. 7482 OF 2018

(Dilip s/o Jagannath Dahiwade Vs. The State of Maharashtra & Ors.)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri S.B. Bangde h/f Shri R.M. Ahirrao, Advocate for the petitioner.
Ms. S.S. Jachak, Assistant Government Pleader for respondent Nos. 1, 3 and 4/
State.
Shri A.J. Pathak, Advocate for respondent No.2.

CORAM : A. S. CHANDURKAR AND ANIL L. PANSARE, JJ.

DATE : DECEMBER 13, 2022.

Heard.

RULE. Rule made returnable forthwith and heard the learned Counsel for the parties.

The petitioner was serving as Clerk with Municipal Council, Pandharkavada. It is his case that the Municipal Council being satisfied with the work discharged by him passed a resolution and sought to grant two additional annual increments to the petitioner by its order dated 4/3/2015. Thereafter, on the recommendation of the State Pay Improvement Committee-2008 in its report as per para no. 3.24, it was decided that higher pay scale along with increment would be made admissible to eligible employees and it was stated that the General Administration Department would take necessary steps accordingly. Pursuant thereto, the petitioner started receiving two additional annual increments. On 24/8/2017, the General Administration Department issued a Resolution and decided that such benefit for the period from 1/10/2006 to 1/10/2015 would not be admissible. Based on this Government Resolution, the Municipal Council on 10/6/2018 sought to undertake recovery of the said payment made to the petitioner.

The learned counsel for the parties fairly state that the Government Resolution dated 24/8/2017 has been considered by this Court in *Writ Petition No. 625/2016 (Sharad Pawar Vs. State of Maharashtra)* decided on 17/11/2017. It has been held therein that in the said Government Resolution there is no

recovery contemplated and the benefit already granted has merely been directed to be discontinued. We find that the present petitioner would be entitled to the benefit of the aforesaid adjudication. Since the Government Resolution dated 24/8/2017 does not contemplate recovery of additional increment already paid in the nature of award, the impugned communication dated 10/6/2018 is found to be unsustainable.

Hence, for the reasons contained in *Sharad Pawar (supra)*, the impugned communication dated 10/6/2018 issued by the Chief Officer, Municipal Council, Pandharkavada is set aside. Since it has been held that recovery of additional increments already paid was not permissible, the amount of Rs.1,10,119/- (rupees one lakh ten thousand one hundred and nineteen) which came to be deducted on 1/8/2018 shall be refunded back to the petitioner within a period of two months from today.

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

(ANIL L. PANSARE, J.)

(A. S. CHANDURKAR, J.)

SUMIT