

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2477 OF 2023

SADASHIV KASHIRAM SURYAWANSHI
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

.....
Advocate for Petitioner : Mr. Abhishek C. Deshpande
AGP for Respondents – State : Mr. S. G. Karlekar
.....

CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.

DATED : 10th MARCH, 2023

PER COURT :

1. We have considered the submissions of the learned Advocate for the Petitioner. The learned AGP represents the State Authorities.

2. The Petitioner has put forth prayer Clauses 'B' and 'C' as under :-

“B] *By issuing writ of Mandamus or any appropriate writ, order or direction in like nature, to direct the respondents, benefit that was accorded to petitioners of excellent work by order dated 23.09.2003 shall not be withdrawn, in view of the orders of this Hon’ble court in Writ Petition no. 10993/2019 dated 05.09.2019.*

C] *By issuing writ of mandamus or any other appropriate writ, order or direction in like nature. The respondents may be directed to pay/release monetary benefits of additional increments for*

“outstanding work” granted to the petitioner by order dated 23.09.2003 with consequential benefits to the and for that purpose issue necessary direction or order to the respondents.”

3. This issue is no longer *res integra* considering the order passed by this Court dated 06/06/2019, in ***Writ Petition No.6317 of 2019***, filed by ***Vijaykumar Sambayya Mathpati and others Vs. The State of Maharashtra and others***, and connected matters. Paragraph Nos.1 to 4, which are relevant, are reproduced here under :-

“1. It is submitted that, petitioners in these writ petitions are awarded certificate of excellent work and advance increments in the year 2006 to 2009. They were 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 If the petitioners are already granted certificate of excellent work in the year 2006 to 2009, then same cannot be withdrawn retrospectively on the basis of subsequent Government Resolution.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 to 2009, 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, the writ petitions are disposed of.
No costs.”*

4. Considering the facts and circumstances and the earlier Judicial pronouncements of this Court, we have no reason to take a different view. The Government Resolution dated 24/08/2017, will have a prospective effect and will not be made applicable retrospectively. If the benefits that were available to the Petitioner under the earlier Government Resolution and the policy of the State, for doing excellent work from 2006 to 2009, such benefits cannot be recovered from the Petitioner. In case a recovery is made, such recovered amount shall be refunded to the Petitioner, within a period of 60 days.

5. With the above observations and directions, this Petition is disposed off.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)