

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 WRIT PETITION NO.3104 OF 2021

SURESH BABURAO PHADKULE
VERSUS
THE STATE OF MAHARASHTRA THR ITS PRINCIPAL AND
OTHERS

.....
Advocate for Petitioner : Mr. S.B. Sontakke h/f Mr. Suhas B. Ghute
AGP for Respondent Nos. 1 to 4: Mr. V.M. Kagne
Advocate for Respondent No.5 : Mr. V.S. Sakhare h/f Mr. S.D.
Kaldate
.....

**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 23rd FEBRUARY, 2023.**

PER COURT :-

1. We have considered the submissions of the learned Advocate for the petitioner and on behalf of the Zilla Parishad. The learned AGP represents the State Authorities.

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

(B) The Government Resolution dated 24th August, 2017 may kindly be quashed and set aside to the extent of denial of benefits of one or two additional increments to the employees who has been given benefits of sixty pay commission it means its applicability of retrospective in nature i.e. for period of 01.01.2006 to 01.10.2015 by issuing the writ of mandamus or any other writ or order.

(C) The respondent authority may kindly be directed to give/release

the benefits of one or two additional increments to the petitioner forthwith as per existing earlier policy of the Government/Resolutions issued by the respondent authority

OR

The respondent authority may kindly be direct to restoration /extension and continuation of earlier order dated 6.9.2007 passed by the Chief Executive officer, Zilla Parishad Osmanabad as per existing G.R.

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, 2, 3, and 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 If the petitioners are already granted certificate of excellent work in the year 2006 to 2009, then same cannot be withdrawn retrospectively on the basis of subsequent Government Resolution.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 petitioners, 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.)

rlj/