

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

911 WRIT PETITION NO.3022 OF 2023

DINKAR MAHARU MAHAJAN
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Sandeep B. Sontakke.

AGP for Respondent/State : Mr. S. G. Karlekar.

Advocate for Zilla Parishad, Jalgaon : Mr. N. E. Deshmukh.

...

AND

915 WRIT PETITION NO.3074 OF 2023

SMT. HAMIDA BI SUJATKHA TADAVI
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Yogesh B. Bolkar.

AGP for Respondent/State : Mr. P. S. Patil.

Advocate for Zilla Parishad, Jalgaon : Mr. N. E. Deshmukh.

...

AND

916 WRIT PETITION NO.3076 OF 2023

SMT. RABIYABI ANIS KHAN
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Yogesh B. Bolkar.

AGP for Respondent/State : Mr. S. K. Tambe.

Advocate for Zilla Parishad, Jalgaon : Mr. N. E. Deshmukh.

...

AND

918 WRIT PETITION NO.3080 OF 2023

SMT. YASMEEN BANO SHAIKH NIZAMUDDIN

VERSUS

THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Yogesh B. Bolkar.

AGP for Respondent/State : Mr. V. M. Kagne.

Advocate for Zilla Parishad, Jalgaon : Mr. N. E. Deshmukh.

...

AND**919 WRIT PETITION NO.3081 OF 2023**

MUBARAK KHA SARDAR KHA TADVI

VERSUS

THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Yogesh B. Bolkar.

AGP for Respondent/State : Mr. S. P. Tiwari.

Advocate for Zilla Parishad, Jalgaon : Mr. N. E. Deshmukh.

...

AND**920 WRIT PETITION NO.3082 OF 2023**

SMT. FARZANA BI HANIF KHAN SIKALGAR

VERSUS

THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Yogesh B. Bolkar.

AGP for Respondent/State : Mr. S. G. Karlekar.

Advocate for Zilla Parishad, Jalgaon : Mr. N. E. Deshmukh.

...

AND**921 WRIT PETITION NO.3083 OF 2023**

QUAZI AIZAZUDDIN KHALILUDDIN

VERSUS

THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Yogesh B. Bolkar.

AGP for Respondent/State : Mr. P. S. Patil.
Advocate for Zilla Parishad, Jalgaon : Mr. N. E. Deshmukh.

...

AND

922 WRIT PETITION NO.3084 OF 2023

SAYED NAZIRMIYAN NAJAFALI
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Yogesh B. Bolkar.
AGP for Respondent/State : Mr. S. K. Tambe.
Advocate for Zilla Parishad, Jalgaon : Mr. N. E. Deshmukh.

...

AND

923 WRIT PETITION NO.3085 OF 2023

SMT. AREFA BI SHAIKH NIZAMUDDIN
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Yogesh B. Bolkar.
AGP for Respondent/State : Mr. V. M. Kagne.
Advocate for Zilla Parishad, Jalgaon : Mr. N. E. Deshmukh.

...

AND

924 WRIT PETITION NO.3088 OF 2023

SUBHASH TULSHIRAM CHAUDHARI
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Yogesh B. Bolkar.
AGP for Respondent/State : Mr. S. P. Tiwari.
Advocate for Zilla Parishad, Jalgaon : Mr. N. E. Deshmukh.

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CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 16th March, 2023.

Per Court:

1. The learned Advocates for the Petitioners have placed a ready reference chart indicating the names of the Petitioners/widow, Writ Petition numbers and other details. The same is taken on record and marked as “X” for identification.

2. All these Petitioners, including the deceased, are identically placed. All of them are the original employees, who have superannuated from employment. All have been subjected to recovery of amounts, purportedly for the reason that the amounts that were paid to them towards their revised pay-scales in view of acquiring certificates of MS-CIT almost a decade ago, were wrongly paid to them.

3. It is undisputed that these Petitioners were not personally involved in the revision of their pay scales. They were also not involved in manipulating such revision. There is no allegation of fraud or deceit against them. No undertaking was obtained from these Petitioners on the date when the pay scales were revised and the payment of revised pay scale commenced. In some cases, at the stroke of retirement, a condition was imposed that they should execute

an undertaking and it is in these circumstances that an undertaking has been extracted.

4. The learned Advocate representing the Zilla Parishad as well as the learned A.G.Ps., submit that once an undertaking is executed, the case of the Petitioners would be covered by the law laid down by the Hon'ble Supreme Court in the case of *High Court of Punjab and Haryana and others vs. Jagdev Singh, 2016 AIR (SCW) 3523*. Reliance is placed on the judgment delivered by this Court on 1.9.2021, *in writ petition No. 13262 of 2018 filed by Ananda Vikram Baviskar Vs. State of Maharashtra and others*.

5. We have referred to the law laid down by the Hon'ble Supreme Court in *High Court of Punjab and Haryana and others vs. Jagdev Singh (supra)*. The record reveals that no undertaking was taken from these Petitioners when the pay scales were revised. An undertaking from some of them was taken at the stroke of their retirement. An undertaking has to be taken from the candidate on the day the revised pay scale is made applicable to him and the payment of such pay scale commences. At the stroke of superannuation of the said employee, asking him to tender an undertaking, practically amounts to an afterthought on the part of the employer and a mode of compelling the candidate to execute an undertaking since they are apprehensive that their retiral benefits would not be released until such

undertaking is executed. Such an undertaking will not have the same sanctity of an undertaking executed when the payment of revised pay scale had commenced. We, therefore, respectfully conclude that the view taken in *High Court of Punjab and Haryana and others vs. Jagdev Singh (supra)* would not be applicable to the case of these Petitioners, more so since the recovery is initiated after their superannuation.

6. Taking into account that these Petitioners were not involved in any mischief, fraud or deceit in orchestrating their wrongful pay revision, the law laid down by the Hon'ble Supreme court in *Syed Abdul Qadir vs. State of Bihar and others, 2009 (3) SCC 475* and *State of Punjab and other vs. Rafiq Masih (White Washer) etc. (2015) 4 SCC 334 = AIR 2015 SC 696*, would apply to these cases.

7. As such, all these Petitions are allowed. The impugned orders are quashed and set aside. The amounts due and payable to the Petitioners, as well as to the widow, after the superannuation of the said candidates/death of the candidate, would be paid to these Petitioners/widow within a period of 90 days alongwith admissible interest as per Rules, to be paid together.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]