

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 WRIT PETITION NO.3320 OF 2023

Shaikh Amir Shaikh Kadar
VERSUS
The State Of Maharashtra Through Its Secretary And Others

.....

AND
920 WRIT PETITION NO.3323 OF 2023

Ananda Sitaram Nikumbhe
VERSUS
The State Of Maharashtra Through Its Secretary And Others

.....

AND
WRIT PETITION NO.3341 OF 2023

Rajendra Yuvraj Patil
VERSUS
The State Of Maharashtra Through Its Secretary And Others

.....

AND
WRIT PETITION NO.3342 OF 2023

Hiralal Bajirao Bhalekar
VERSUS
The State Of Maharashtra Through Its Secretary And Others

.....

AND
WRIT PETITION NO.3333 OF 2023

Indubai Sevanand Thakur
VERSUS
The State Of Maharashtra Through Its Secretary And Others

.....

AND
WRIT PETITION NO.3334 OF 2023

Gulabrao Narayan Pawar
VERSUS
The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3336 OF 2023

Milind Kashinath Chavan
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3339 OF 2023

Sunita Siddharth Bagul Alias Bebibai Bhuta Bhamre
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3324 OF 2023

Dinkar Mango Bahiram
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3340 OF 2023

Shankarsing Ramsing Rajput
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3356 OF 2023

Lata Devidas Dusane Alias Golhare
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3357 OF 2023

Prakash Kashiram Rathod
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3361 OF 2023

Rajendra Muralidhar Bramhankar
VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3335 OF 2023

Gokul Vitthal Sonawane

VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3337 OF 2023

Sugandha Narayan Badge Alias Sugandha Rajendra Mahire

VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3332 OF 2023

Vijaysing Bhimsing Shinde

VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3325 OF 2023

Prakash Sitaram Nikumbhe

VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3344 OF 2023

Sindhu Gulabrao Ambhore

VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3327 OF 2023

Ujawala Murlidhar Vispute

VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3326 OF 2023

Hanumant Sahadu Mokale
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3329 OF 2023

Mangala Balkrushna Wani
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3330 OF 2023

Bhikan Daulat Patil
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3331 OF 2023

Madhavrao Tulshiram Deore
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3338 OF 2023

Dilip Dhana Sonawane
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3343 OF 2023

Sunita Siddharth Bagul Alias Bebibai Bhuta Bhamre
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3328 OF 2023

Sunit Sakharam More
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3351 OF 2023

Sushila Vasant Chaudhari
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3347 OF 2023

Shaikh Aslam Shaikh Isa Sikalkar
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3355 OF 2023

Sayarabi Shabbirkha Tadavi
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3346 OF 2023

Nazima Sardar Tadavi
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3345 OF 2023

Sunanda Shriram Kumawat
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3358 OF 2023

Shankar Vedu More
VERSUS
The State Of Maharashtra Through Its Secretary And Others
.....

AND
WRIT PETITION NO.3359 OF 2023

Badrinath Kanhu Pawar
VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3348 OF 2023

Atmaram Premraj Ahire

VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3353 OF 2023

Vandana Ashok Rajput

VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3360 OF 2023

Mandakini Anil Lindayat

VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3350 OF 2023

Manorama Sudhakar Sali

VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3354 OF 2023

Aruna Bhaskar Patil

VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

WRIT PETITION NO.3349 OF 2023

Kalabai Murlidhar Shinde

VERSUS

The State Of Maharashtra Through Its Secretary And Others

.....

AND

928 WRIT PETITION NO.3364 OF 2023

Arabkha Amirkha Tadavi
VERSUS
The State Of Maharashtra Through Its Secretary And Others

.....
Advocates for Petitioners” Mr. Yogesh B. Bolkar and Mr. S. B. Sontakke, in
respective petitions
Mr. A.G.P. for Respondent/State Authorities: Mr. S. K. Tambe
Advocates for Zilla Parishad : Mr. S. R. Dheple and Mr. N.E. Deshmukh (in
respective matters)
.....

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

PER COURT :-

1. In all these matters, the Petitioners claim to be identically placed. The learned advocates representing the Zilla Parishad, agree.

2. Amongst these Petitioners, there are some widows who have filed the Petitions. All the original employees were working with the respective Zilla Parishads and superannuated from employment. All of them were subjected to recovery of amounts, purportedly for the reason that excess amounts were paid to them, under wrongful revised pay scales/erroneous revised pay scales on the basis of acquiring the certificate of MS-CIT etc. These pay scales were revised more than a decade ago.

3. The grievance of these Petitioners is that recoveries

have been initiated against them, from their retiral benefits/pensionary benefits. In some cases, amounts have already been recovered. A chart showing the details of the petitioners, their dates of superannuation, dates of impugned orders and amounts recovered from their retiral benefits/pensionary benefits, are as under:-

Sr. No.	WP Nos.	Name of the Petitioners	Date of superannuation	Date of Impugned Order	Amount Recovered from the petitioners
1	3320/2023	Saikh Amir Shaikh Kadar	30.06.2021	21.03.2022	2,14,884.00
2	3364/2023	Arabkha Amirkha Tadavi	31.12.2015	21.07.2017	3,30,448.00
3	3323/2023	Ananda Sitaram Nikumbhe	30.09.2022	29.09.2022	2,65,061.00
4	3341/2023	Rajendra Yuvraj Patil	31.05.2022	31.05.2022	2,25,675.00
5	3342/2023	Hiralal Bajirao Bhalekar	30.04.2022	29.04.2022	1,17,110.00
6	3333/2023	Indubai sevanand Thakur	31.08.2018	10.10.2019	28,264.00
7	3334/2023	Gulabrao Narayan Pawar	31.05.2020	01.11.2020	92,419.00
8	3336/2023	Milind Kashinath Chavan	31.05.2022	28.11.2022	5,94,570.00
9	3339/2023	Sunita Siddharth Bagul @ Bebibai Bhuta Bhamre	25.02.2021 (Died)	14.03.2022	1,61,597.00
10	3324/2023	Dinkar Mango Bahiram	31.07.2021	28.03.2022	5,69,633.00

11	3340/2023	Shankarsing Ramsing Rajput	31.05.2022	27.10.2022	2,24,725.00
12	3356/2023	Lata Devidas Dusane @ Golhare	31.05.2020	24.08.2020	93,534.00
13	3357/2023	Prakash Kashiram Rathod	31.05.2022	28.07.2022	2,33,790.00
14	3361/2023	Rajendra Muralidhar Bramhankar	31.01.2022	27.01.2022	1,89,691.00
15	3335/2023	Gokul Vithal Sonawane	31.05.2022	02.05.2022	1,78,695.00
16	3337/2023	Sugandha Rajendra Mahire	31.03.2021	16.03.2021	1,61,629.00
17	3332/2023	Vijaysing Bhimsing Shinde	30.11.2022	28.11.2022	2,53,858.00
18	3325/2023	Prakash Sitaram Nikumbhe	31.08.2021	28.11.2022	1,43,159.00
19	3344/2023	Sindhu Gulabrao Ambhore	31.08.2020	28.01.2021	99,376.00
20	3327/2023	Ujwala Muralidhar Vispute	30.06.2022	14.09.2022	2,01,494.00
21	3326/2023	Hanumant Sahdu Mokale	30.06.2021	21.09.2021	1,68,819.00
22	3329/2023	Mangla Balkrushna Wani	31.05.2020	05.02.2021	1,30,224.00
23	3330/2023	Bhikan Daulat Patil	31.08.2020	10.11.2020	1,60,771.00
24	3331/2023	Madhavrao Tulshiram Deore	28.02.2022	15.07.2022	2,13,242.00
25	3338/2023	Dilip Dhana Sonawane	31.12.2021	27.10.2022	2,90,420.00
26	3343/2023	Sunita	31.05.2021	04.08.2021	1,56,304.00

		Siddharth Bagul @ Bebibai Bhuta Bhamre			
27	3328/2023	Sunit Sakharam More	29.02.2016	02.07.2016	3,61,188.00
28	3351/2023	Sushila Vasant Chaudhari	30.11.2022	05.11.2022	2,64,163.00
29	3347/2023	Shaikh Aslam Shaikh Isa Sikalkar	31.05.2020	12.10.2020	3,14,378.00
30	3355/2023	Sayarabai Wd/o. Shabbirkha Tadv	19.06.2019 Died	29.12.2021	5,11,791.00
31	3346/2023	Nazima Wd/o Sardar Tadv	15.10.2018 (Died)	04.03.2020	4,14,258.00
32	3345/2023	Sunanda Shriram Kumawat	31.05.2020	10.08.2021	1,95,431.00
33	3358/2023	Shankar Vedu More	31.05.2021	28.07.2021	3,65,910.00
34	3359/2023	Badrinath Kanhu Pawar	31.05.2022	02.09.2022	4,16,365.00
35	3348/2023	Atmaram Premraj Ahire	31.05.2022	23.08.2022	3,55,375.00
36	3353/2023	Vandana Wd/o. Ashok Rajput	18.10.2014 Died	15.07.2015	1,34,172.00
37	3360/2023	Mandakini Anil Lindayat	30.11.2020	30.04.2021	1,76,589.00
38	3350/2023	Manorama Sudhakar Sali	31.03.2018	01.08.2018	2,26,345.00
39	3354/2023	Aruna Bhaskar Patil	31.07.2021	07.09.2022	2,39,490.00
40	3349/2023	Kalabai Muralidhar Shinde	34.05.2018	18.07.2019	57,472.00

4. We have considered the strenuous submissions of the learned advocates. It is, however, undisputed that none of these Petitioners had played any fraud or were personally involved in wrongful revision of their pay scales or orchestrating wrongful revision by manipulating the record. There is no allegation of fraud or deceit against any of them. No undertaking was acquired from them as and when the revised pay scale become payable. In some cases, at the stroke of retirement, a condition was imposed that they should execute an undertaking and it in these coercive circumstances, that undertaking were extracted from some of them.

5. The learned Advocate representing the Zilla Parishad as well as the learned A.G.P., 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 ***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***.

6. 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)***. However, the record reveals that no undertaking was taken from these Petitioners when the pay scales were revised. The undertakings from some of them were 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 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.

7. 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.

8. As such, all these Petitions are allowed.

9. The impugned orders are quashed and set aside. The amounts due and payable to the Petitioners, as well as to the widows, after the superannuation of the said employees/death of the employees, would be paid to these Petitioners/widow, within a period of 90 days alongwith admissible interest as per Rules, to be paid together.

10. In Writ Petition No. 3364 of 2023, filed on 20.3.2023, Arabkha Amirkha Tadavi (alias Arabkhan Amirkhan Tadavi), is before this court for assailing the order dated 21.7.2017, though he has approached this court belatedly.

11. The learned advocate for the Petitioner submits on instructions and in the light of the averments, set out in paragraph 10, the Petitioner would not claim any interest on the amount which has already been recovered from him, to the extent of it's repayment.

12. As such, this petition is partly allowed. The impugned order dated 21.7.2017 is quashed and set aside to the extent of recovery of amount of Rs.3,30,448/-. The said amount of Rs.3,30,448/- recovered from the Petitioner, shall be repaid to him within 60 days from today, failing which the amount would attract interest at the rate of Rs.5% p.a. from the date of this order.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)