

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 WRIT PETITION NO.3700 OF 2023

SHAKUNTALA PRAMOD BARHATE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

...

AND
929 WRIT PETITION NO.3701 OF 2023

DILIP PANDIT GADHE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

...

AND
930 WRIT PETITION NO.3702 OF 2023

BHASKAR SUKDEV MAHAJAN
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

...

AND
931 WRIT PETITION NO.3703 OF 2023

SULBHA RAMKRUSHNA PATIL
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

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AND
932 WRIT PETITION NO.3704 OF 2023

SULOCHANA KHEMCHAND BHOLE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

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AND
933 WRIT PETITION NO.3712 OF 2023

HEMALATA ARUN BENDALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

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AND
934 WRIT PETITION NO.3713 OF 2023

SHASHIKALA RAJARAM RANE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

...

AND
935 WRIT PETITION NO.3715 OF 2023

REKHA ANANDA CHAUDHARI
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

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AND
936 WRIT PETITION NO.3716 OF 2023

USHA MADHUKAR INGALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

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Advocate for Petitioner : Mr. Yogesh B. Bolkar
AGP for Respondents: Mr. S.K. Tambe
Advocate for Respondent Nos. 2 to 4 in WP Nos. 3700 to 3704 of
2023 : Mr. S.R. Dheple
Advocate for Respondent Nos. 2 to 4 in WP Nos. 3712, 3713, 3715,
and 3716 of 2023 : Mr. N.E. Deshmukh

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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 31st MARCH, 2023.**

PER COURT :-

1. The learned Advocates for the Petitioners have tendered a ready reference chart indicating the names of the Petitioners, Writ Petition numbers and other details. The same is taken on record and marked as "X" for identification.
2. All these Petitioners 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.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 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, after the superannuation of the said candidates, would be paid to these Petitioners within a period of 90 days alongwith admissible interest as per Rules.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

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