

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4584 OF 2023

DAIDIPYAMAN DIGAMBAR NERKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

...

Advocate for the Petitioners : Shri Murge Estling S.
AGP for Respondents 1 to 5/State : Shri S.P. Tiwari

...

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

DATE :- 20th April, 2023

Per Court :-

1. In this petition, the identically placed Petitioners have put forth prayer clauses (B), (C) & (D), which read as under:-

- “B) *By issuing writ of mandamus or any other appropriate writ, order or direction in like nature, direct the Respondent No.4 to give /re-grant the benefit of Ekstar (One step pay scale) under G.R.dt.06/08/2002 which was withdrawn in the year for 2018 by misinterpreting the provisions of G.R. dt. 06/08/2002 till they working PESA and direct the Respondent to pay the salary of the petitioners as per the Eksatr (One step pay scale) till the petitioners working in tribal/PESA.*
- C) *By issuing writ of mandamus or any other appropriate writ, order or direction in like*

nature, direct the Respondents No. 4 to pay the arrears of salaries of the petitioners as per the Ekstar (One step Pay Scale) form the respective dates of withdrawal of Ekstar and refund recovered amount to the petitioners and further directs not to revoke the benefits of Ekstar (One step Pay Scale) as per G.R. dt. 06/08/2002 though petitioner entitled for time bound promotion.

D) By issuing writ of mandamus or any other appropriate writ, order or direction in like nature, Direct the Respondents to fix pay scale as per the clause-6 of G.R.dt. 14/05/2019 and also directed accept the option form to apply the time bound promotion scale at appropriate time as per G.R.dt. 14/05/2019 for that purpose issue necessary order.”

2. We have considered the submissions of the learned Advocates for the respective sides and have perused the series of orders passed by this Court in favour of similarly situated Petitioners, which have been annexed to the petition.

3. In view of the above, we do not find any such circumstances, which would convince us to take a different view.

4. The learned Advocates representing the respective parties in those cases, (orders which have been annexed to the petition), have clearly stated that the order passed by this Court at the Principal Seat, in Writ Petition No.8824/2021, dated 21/12/2021, is applicable to all such cases.

5. In view of the above, **this Writ Petition is allowed** in the following terms :-

(i) The impugned action of recovery initiated by the respondents is quashed and set aside.

(ii) The Additional Commissioner, Tribal Development Department, Nashik, Respondent No.4, shall scrutinize the records of all these petitioners and the places, at which they are deployed for performing their duties, within a period of 21 days.

(iii) Those cases, which do not suffer from any legal impediment after verification, shall be cleared by Respondent No.4 and the salary benefits, to which they are entitled to, in the light of the one-step pay-scale made available to the employees working in the Tribal and PESA areas, shall be paid, along with their arrears, as well as their current salaries, within a period of four weeks thereafter.

(iv) After scrutiny, if any of these Petitioners, on the basis of their records, are found to be ineligible, Respondent No.4, would issue notices to each of such Petitioners, so as to enable them to appear before the said authority and address Respondent no.4.

(v) After such hearing, which shall be completed within

four months from today, Respondent No.4 shall pass appropriate orders and grant benefits of one-step pay-scale to those candidates, who are found to be eligible.

(vi) Those Petitioners, who suffer adverse orders after the above stated exercise is completed, would be at liberty to avail of a statutory remedy, as is permissible in law.

kps (SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)