

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

WRIT PETITION NO. 5041 OF 2023

Shalini Mitharam Bhangale

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

.....

Mr. Yogesh B. Bolkar – Advocate for the petitioner
Mr. S. P. Tiwari – AGP for respondent/State
Mr. S. R. Dhple – Advocate for respondent nos. 2 to 4

.....

AND

912 WRIT PETITION NO.5042 OF 2023

INDU JAGDISH KURKURE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

.....

Mr. Yogesh B. Bolkar – Advocate for the petitioner
Mr. S. P. Tiwari – AGP for respondent/State
Mr. S. R. Dhple – Advocate for respondent nos. 2 to 4

.....

AND

914 WRIT PETITION NO.5047 OF 2023

ANIL MADHAV FEGADE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

.....

Mr. Yogesh B. Bolkar – Advocate for the petitioner
Mr. S. K. Tambe – AGP for respondent/State
Mr. S. R. Dhple – Advocate for respondent nos. 2 to 4

.....

AND

915 WRIT PETITION NO.5050 OF 2023

DILIP VITTHAL MAHALE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

.....

Mr. Yogesh B. Bolkar – Advocate for the petitioner
Mr. S. K. Tambe – AGP for respondent/State
Mr. S. R. Dhple – Advocate for respondent nos. 2 to 4

.....

AND

917 WRIT PETITION NO.5055 OF 2023

VASANTI GOPAL NIMBHORKAR

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY

.....

Mr. Yogesh B. Bolkar – Advocate for the petitioner
Mr. V. M. Kagne – AGP for respondent/State
Mr. S. R. Dhple – Advocate for respondent nos. 2 to 4

.....

AND

918 WRIT PETITION NO.5057 OF 2023

PADMINI CHANDRASEN TAYADE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

.....

Mr. Yogesh B. Bolkar – Advocate for the petitioner
Mr. V. M. Kagne – AGP for respondent/State
Mr. S. R. Dhple – Advocate for respondent nos. 2 to 4

.....

AND

919 WRIT PETITION NO.5059 OF 2023

DEOYANI HIRAMAN CHAUDHARI

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

.....

Mr. Yogesh B. Bolkar – Advocate for the petitioner
Mr. S. G. Karlekr – AGP for respondent/State
Mr. S. R. Dhple – Advocate for respondent nos. 2 to 4

.....

AND

922 WRIT PETITION NO.5073 OF 2023

VINITA BHAGWAT DHANDE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

.....

Mr. Yogesh B. Bolkar – Advocate for the petitioner
Mr. S. G. Karlekr – AGP for respondent/State
Mr. S. R. Dhple – Advocate for respondent nos. 2 to 4

.....

AND

923 WRIT PETITION NO.5074 OF 2023

SUDHAKAR LAXMAN TAYADE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

.....

Mr. Yogesh B. Bolkar – Advocate for the petitioner
Mr. S. G. Karlekr – AGP for respondent/State
Mr. S. R. Dhple – Advocate for respondent nos. 2 to 4

.....

AND

924 WRIT PETITION NO.5079 OF 2023

SHAILEJA HOMAKANT PATIL ALIAS SHAILA LILADHAR CHAUDHARI
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

.....

Mr. Yogesh B. Bolkar – Advocate for the petitioner
Mr. V. M. Kagne – AGP for respondent/State
Mr. S. R. Dhple – Advocate for respondent nos. 2 to 4

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

DATED : 02nd MAY 2023

PER COURT : -

1. The learned Advocate for the Petitioners has 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 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. In Writ Petition No. 5059 of 2023, the petitioner – Smt. Deoyani Hiranman Chaudhari has suffered recovery on the ground of MS-CIT, as well as wrong pay fixation.

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 employees, asking them 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 along with admissible interest as per Rules.

[SANJAY A. DESHMUKH]
JUDGE

[RAVINDRA V. GHUGE]
JUDGE