

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

910 WRIT PETITION NO.7581 OF 2022

**SANDHYA UTTAMRAO SUPEKAR ALIAS SANDHYA DILIPRAO JOSHI
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS**

...

Mr. M. K. Bhosale, Advocate for Petitioner
Mr. P. S. Patil, AGP for Respondents State
Mr. S. R. Yadav-Lonikar, Advocate for Respondents 2 and 3.

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.
DATE : 2nd November, 2023

ORDER:

1. We have heard the learned Advocates for the Petitioner and Respondent Nos. 2 and 3. With their assistance, we have perused the Petition paper-book and we have gone through the following orders passed by this Court at Aurangabad and Nagpur:-

Order dated 25.01.2019 in Writ Petition No.1954 of 2018

"1. We have heard learned counsel for petitioners, learned A.G.P. and learned counsel for respective Zilla Parishads.

2. Learned counsel for petitioners submits that all the petitioners in these writ petitions are the District awardee teachers prior to 04/09/2018.

3. For the first time additional increment was given to the District awardee teachers under Govt. Resolution dated 12/12/2000. Pursuant thereto, additional increments as per the said Govt. Resolution were given.

4. There are other categories of awardee teachers such as State awardee teachers, national awardee teachers and the award being given for excellent/outstanding work. In the present cases, we are concerned only with the District awardee teachers.

5. Upon perusal of various Govt. Resolutions placed on record, it does not appear that prior to the Govt. Resolution dated 04/09/2018, there was any Govt. Resolution taking away benefit of the additional increment given to District awardee teachers. Of course, now, no District awardee teacher would be entitled for the benefit in view of the Govt. Resolution dated 04/09/2018. However Govt. Resolution dated 04/09/2018 can not be given retrospective effect.

6. Govt. Resolution relied by the learned counsel for Zilla Parishad viz. Govt. Resolution dated 27/02/2009 is general in nature. It only states that the committee formed by the Govt. has made recommendation and the same is to be accepted with certain modifications. Under the Govt. Resolution dated 24/08/2017, Govt. has taken decision that the benefit of advance increment would not be available to those who were granted certificate of excellent work. It is under the Govt. Resolution dated 04/09/2018 now the benefit of additional increment to the District awardee teacher can not be given.

7. However, all those who were granted certificate of District awardee teacher prior to 04/09/2018 can not be denied the said benefit of additional increment.

8. In light of the above, we pass the following order.

ORDER

The respondent/Zilla Parishad after confirming themselves of the petitioners being District awardee teachers and awarded certificate prior to 04/09/2018 shall individually consider the case of the petitioners for additional increment as is laid down under the Govt. Resolution dated 12/12/2000. The same shall be considered on its own merits expeditiously preferably within a period of six months.

9. Writ Petitions disposed of accordingly."

Order dated 03.04.2019 in Writ Petition No. 12699 of 2018

". It is submitted that, petitioners in these Writ Petitions are awarded certificate of excellent work and advance increments in the year 2006 to 2008. They were given benefit of advance increments and same was also paid. However, now for some of the petitioners recovery is claimed and for some of the petitioners benefit is not extended. If the petitioners are already granted certificate of excellent work in the year 2006, 2007 and 2008, then same cannot be withdrawn retrospectively on the basis of subsequent Government Resolution

2. The same view was taken by us in Writ Petition No. 1954 of 2018 with other connected Writ Petitions under order dated 25.01.2019.

3. The Government Resolution dated 24.08.2017 will have prospective effect and not retrospective and in that case benefit that was accorded to petitioners of excellent work in the year 2006, 2007 and 2008, shall not be withdrawn and if any recovery is made pursuant to the same, same shall be refunded to the petitioners.

4. In the light of the above, Writ Petitions are disposed of. No costs."

Order dated 05.04.2019 in Writ Petition No. 10993 of 2019

". The learned counsel for petitioners and the learned Additional/Assistant Government Pleaders in respective writ petitions are at consensus that the petitioners are similarly situated as the petitioners in Writ Petition No. 12699 of 2018 with with other connected Writ Petitions decided vide order dated 03.04.2019.

2] In view of that, we follow the same course and pass the following order :

I] It is submitted that, petitioners in these Writ Petitions are awarded certificate of excellent work and advance increments in the year 2006 to 2008. They were given benefit of advance increments and same was also paid. However, now for some of the petitioners recovery is claimed and for some of the petitioners benefit is not extended. If the petitioners are already granted certificate of excellent work in the year 2006, 2007 and 2008, the same cannot be withdrawn

retrospectively on the basis of subsequent Government Resolution.

II] The same view was taken by us in Writ Petition No.1954 of 2018 with other connected Writ Petitions under order dated 25/01/2019.

III] The Government Resolution dated 24/8/2017 will have prospective effect and not retrospective and if benefit was accorded to petitioners of excellent work in the year 2006, 2007 and 2008, shall not be withdrawn and if any recovery is made pursuant to the same, same shall be refunded to the petitioners.

3] In the light of the above, Writ Petitions are disposed of. No costs."

Order dated 20.04.2023 in Writ Petition No. 4592 of 2023 and

". The Petitioner claims to be the State Awardee Teacher and he is entitled to two additional increments along with arrears in the light of the Government Resolution dated 24.01.2013. The Petitioner was appointed as an Assistant Teacher on 28.07.1984. She received the said award as an honour as a good teacher on 05.09.2013. In the light of the said Government Resolution, her name is at Sr.No.26. Till today, two additional increments have not been paid. The Petitioner has placed on record in the petition paper book, several orders passed by this Court granting two additional increments to the State Awardee teachers.

2. In view of the above, the grievance of the Petitioner is answered in catena of judgments, first one being the order

dated 16.12.2014 delivered in Writ Petition No.6116/2014 filed by Suresh Raghoba Bhowate vs. The State of Maharashtra and others.

3. This Writ Petition is, therefore, partly allowed with the following directions:-

(a) The Respondents are at liberty to conduct a verification exercise and confirm that the Petitioner is entitled for two additional increments on account being selected as the State Awardee Teacher in terms of the Government Resolution dated 24.01.2013. This exercise shall be completed within 60 (sixty) days from today.

(b) Since the Petitioner has been selected as the State Awardee Teacher prior to 04.09.2014 on which date, the Government issued another resolution and modified some conditions and converted the grant of two additional increments into a lump-sum payment of Rs.1 lac as an award, the entitlement of the Petitioner would be as per the Government Resolution dated 24.01.2013.

(c) If the Petitioner is confirmed to be the State Awardee Teacher, she would be granted monetary benefits as expeditiously as possible and preferably within 60 (sixty) days from the date of the completion of the verification exercise."

Order dated 16.12.2014 in Writ Petition No. 6116 of 2014 at Nagpur Bench.

"The petitioners were State/National Awardee Teachers and were eligible for grant of two advance/additional increments

in view of the government Resolution issued from time to time. The Government issued resolution dated 04.09.2014 by which, two advance/additional increments were denied to the petitioners and other State/National awardee teachers. Since, according to the petitioners, the Government Resolution dated 04.09.2014 would operate prospectively, the State Government was not entitled to recall the orders granting two advance/additional increments to the petitioners and directing the recovery of the amount from one of them.

In the aforesaid set of facts, since we prima facie found that the Government Resolution dated 04.09.2014 would operate prospectively, we had asked the learned Government Pleader to make a statement, whether the Government Resolution was prospective in nature and whether the petitioners were entitled to retain two advance/additional increments granted to them in pursuance of the Government Resolutions from time to time.

Mrs. Dangre, the learned Government Pleader, states on the basis of the communication issued by Shri V.M. Bivalkar, desk Officer, State Government dated 15.12.2014 that the Government Resolution dated 04.09.2014 is prospective in nature and the same would not affect the petitioners and the State /National awardee teachers, who have been granted benefit of two advance/additional increments before issuance of the Government Resolution dated 04.09.2014. the copy of the communication dated 15.12.2014 is tendered on record. It is, however, stated that a budgetary provision would be made for granting the monetary benefit to the Petitioners and the other State/National awardee teachers, who are entitled

to the benefit of the resolutions of the State Government. It is stated that this court may grant some time to the State Government. It is stated that this court may grant some time to the State to release the monetary benefits flowing from the Government Resolutions issued from time to time, to the State/National awardee teachers.

In view of the above, the Statement made by the learned Government Pleader, the grievance of the petitioners would stand redressed. We, therefore, dispose of the writ petition, by accepting the statement made by the learned Government Pleader and direct the State Government to pay the monetary benefits flowing from the earlier resolutions to the petitioners, within a period of six months. Order accordingly. No order as to costs."

2. It is thus clear that Respondent No.3 has not considered the law laid down by this Court and by wrongly referring to the GR dated 27.08.2017 instead of 24.08.2017, has passed the impugned order.

3. In view of the above, **this Petition is partly allowed.** The impugned order is quashed and set aside.

4. As like the earlier orders, referred to herein above, we are issuing the same directions, as under:-

(a) The Respondents are at liberty to conduct a verification exercise and confirm that the Petitioner is entitled for two additional increments on account being selected as the State Awardee Teacher in terms of the

Government Resolution dated 24.01.2006. This exercise shall be completed within 60 (sixty) days from today.

- (b) Since the Petitioner has been selected as the State Awardee Teacher prior to 04.09.2014 on which date, the Government issued another resolution and modified some conditions and converted the grant of two additional increments into a lump-sum payment of Rs.1 lac as an award, the entitlement of the Petitioner would be as per the Government Resolution dated 24.01.2006.
- (c) If the Petitioner is confirmed to be the State Awardee Teacher, she would be granted monetary benefits as expeditiously as possible and preferably within 60 (sixty) days from the date of the completion of the verification exercise."

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

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