

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

WRIT PETITION NO.11773 OF 2023

**SANTOSH RAMCHANDAR JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**AND
WRIT PETITION NO. 11774 OF 2023**

**SHANKAR DHANAJI MOKASARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**AND
WRIT PETITION NO. 11775 OF 2023**

**GOPALDAS PANDITDAS BAIRAGI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**AND
WRIT PETITION NO. 11776 OF 2023**

**ASHOK BUDHA AHIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**AND
WRIT PETITION NO. 11777 OF 2023**

**MANGALABAI Wd/O PRAKASH MORE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**AND
WRIT PETITION NO. 11778 OF 2023**

**BHIMRAO BOMATU SONAWANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**AND
WRIT PETITION NO. 11779 OF 2023**

**JATAN SHRAVAN AHIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**AND
WRIT PETITION NO. 11780 OF 2023**

**PRAKASH SHRAVAN BHILLA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr. S. B. Sontakke, Advocate for Petitioners
Mr. P K. Lakhotiya, AGP for Respondent – State
Mr. Sachin B. Munde, Advocate for Respondent Nos. 2 to 4 in all the
Petitions

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**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 25.09.2023

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 is a widow who has filed a Petition. 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	11773/2023	Santosh Ramchandrar Jadhav	31.05.2023	08.06.2023	3,28,891/-
2	11774/2023	Shankar Dhanaji Mokasare	30.04.2023	02.05.2023	3,10,645/-

3	11775/2023	Gopaldas Panditdas Bairagi	31.08.2018	24.12.2018	46,682/-
4	11776/2023	Ashok Budha Ahire	31.05.2018	31.01.2019	39,503/-
5	11777/2023	Mangalbai Prakash More	28.07.2020	12.02.2021	3,11,494/-
6	11778/2023	Bhimrao Bomatu Sonawane	31.12.2018	17.12.2020	2,90,219/-
7	11779/2023	Jatan Shravan Ahire	30.04.2020	19.04.2019	1,28,650/-
8	11780/2023	Prakash Shravan Bhilla	31.05.2019	13.09.2019	73,923/-

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 scales 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 undertakings 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

widow(s)/widower, after the superannuation of the said employees/death of the employees, would be paid to these Petitioners/widow/widower, 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.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

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