

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12209 OF 2022

CHANDRAKANT GORAKH BORANE AND OTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

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Advocate for the Petitioners : Shri Sabnis Ameya N.
AGP for Respondents 1 to 4/State : Shri V.M. Kagne

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

DATE :- 13th April, 2023

Per Court :-

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

- “B) To direct the Respondents to re-grant the benefit of Ek-Star Scale (One step promotional Scale) as per G.R. Dated 6.8.2002 in favour of Petitioners, since the Petitioners are still working in the Tribal/Naxalite Area, which came to be withdrawn after completion 12 years of service of Petitioners, by issuing writ of mandamus or any other appropriate writ or direction as the case may be.
- C) The Respondents may kindly be directed to pay the Difference in salary of the Petitioners, occurred after implementing the High Pay Scale and withdrawing the benefit of the Ek-

Star Scale (One Step promotional scale) from the respective dates of withdrawal of Ek Star Scale and kindly be directed to refund the recovered amount, if any, from the Petitioners, by issuing writ of mandamus or any other appropriate writ or direction as the case may be.

D) To direct the respondents to decide and consider the representation dated 20.7.2022 and 21.7.2022 submitted by the petitioners in view of the orders passed by this Hon'ble Court more particularly order dated 8.3.2022 in the W.P. No. 2528 of 2022 by issuing necessary writ or directions as the case may be.

E) It may please be hold and declared that, as long as the Petitioners are working in Tribal area, the Petitioners are entitled for both the benefits i.e. benefit of ACPS scheme (after completion of 12 years continuous service) as well as One Step promotional Scale (i.e. benefits under G.R. Dated 6.8.2002) simultaneously and to that regard the entries in the service record may kindly be taken separately, by issuing necessary writ or direction as the case may be.”

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 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.3, 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.3 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, alongwith 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.3, would issue notices to each of such Petitioners, so as to

enable them to appear before the said authority and address Respondent no.3.

(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.)