

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

WRIT PETITION NO. 12874 OF 2023

Hiralal s/o Khandu Chambhar	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

AND

WRIT PETITION NO. 12875 OF 2023

Ishwar s/o Shamrao Chaudhari	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

AND

WRIT PETITION NO. 12876 OF 2023

Padamsing s/o Shenpadu Pardeshi	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

AND

WRIT PETITION NO. 12877 OF 2023

Rajaram s/o Mahadu Zodage	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

AND

WRIT PETITION NO. 12878 OF 2023

Rama s/o Sitaram Chaudhari	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

AND

WRIT PETITION NO. 12879 OF 2023

Pradipkumar Bhaidas Chavan	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

AND

WRIT PETITION NO. 12880 OF 2023

Sharad Arjun Mahajan

...**Petitioner****Versus**

The State of Maharashtra & Ors.

...**Respondents**

AND

WRIT PETITION NO. 12881 OF 2023

Lalita Parshuram Pawar

...**Petitioner****Versus**

The State of Maharashtra & Ors.

...**Respondents**

....

In all the matters :

Mr. Sandeep B. Sontakke – Advocate for the petitioner

Mr. P. K. Lakhotiya – AGP for respondent/State

Mr. Sachin B. Munde – Advocate for respondent nos. 2 to 4

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CORAM : RAVINDRA V. GHUGE**AND****Y. G. KHOBRAGADE, JJ.****DATED : 18th OCTOBER, 2023****PER COURT : -**

1. In all these matters, the Petitioners claim to be identically placed. The learned advocates representing the Zilla Parishad, agree.

2. 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 erroneously revised pay scales, on the basis of acquiring the MS-CIT certificate, 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 (in Rupees)
1	12874/2023	Hiralal Khandu Chambhar	30.09.2021	27.02.2023	1,91,697/-
2	12881/2023	Lalita Parshuram Pawar	30.11.2019	19.06.2020	1,24,482/-
3	12880/2023	Sharad Arjun Mahajan	30.11.2022	19.12.2022	2,59,424/-
4	12877/2023	Rajaram Mahadu Zodage	31.05.2023	26.07.2023	1,66,153/-
5	12879/2023	Pradipkumar Bhaidas Chavan	31.05.2023	16.06.2023	1,96,077/-
6	12876/2023	Padamsing Shenpadu Pardeshi	30.04.2023	02.06.2023	2,82,863/-
7	12875/2023	Ishwar Shamrao Chaudhari	31.04.2023	02.06.2023	2,68,378/-
8	12878/2023	Rama Sitaram Chaudhari	31.05.2023	31.05.2023	3,14,149/-

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 revisions by manipulating the records. 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 is in these compelling 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 as that 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 on the basis of an undertaking extracted at the stroke of 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]
JUDGE

[RAVINDRA V. GHUGE]
JUDGE