

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

910 WRIT PETITION NO.3014 OF 2023

SHIVNARAYAN CHATRU KOLI AND ANOTHER
VERSUS
THE STATE F MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...
Advocate for Petitioners : Mr. Sandeep B. Sontakke.
AGP for Respondent Nos.1 & 2 : Mr. S. G. Karlekar.
Advocate for Respondent Nos.3 & 4 : Mr. N. E. Deshmukh.
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CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 16th March, 2023.

Per Court:

1. We have considered the submissions of the learned Advocates for the Petitioners and on behalf of the Zilla Parishad. The learned AGP represents the State Authorities.

2. The Petitioners have put forth prayer clauses 'B' and 'C' as under :-

"B) By issuing writ of Mandamus or any appropriate writ, order or direction in like nature, to direct that the benefit that was accorded to petitioners of excellent work by order dated 29.09.2008 shall not be withdrawn, in view of the orders of this Hon'ble Court in Writ petition no 6317/2019 dated 06.06.2019.

- C) By issuing writ of mandamus or any other appropriate writ, order or direction in like nature. The respondents may be directed to pay/release monetary benefits of additional increments for “Most Excellent/outstanding work” granted to the petitioners by order 29.09.2008 with consequential benefits to the petitioners by fixing reformative six pay scales and for that purpose issue necessary direction or order to the respondents and to refund the amount recovered from the petitioners if any.”

3. This issue is no longer *res integra* considering the order passed by this Court dated 06/06/2019, in Writ Petition No.6317 of 2019, filed by ***Vijaykumar Sambayya Mathpati and others Vs. The State of Maharashtra and others***, and connected matters. Paragraph Nos.1 to 4, which are relevant, are reproduced here under :-

“1. It is submitted that, petitioners in these writ petitions are awarded certificate of excellent work and advance increments in the year 2006 to 2009. 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 If the petitioners are already granted certificate of excellent work in the year 2006 to 2009, then same cannot be withdrawn retrospectively on the basis of subsequent Government Resolution.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 to 2009, 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, the writ petitions are disposed off. No costs."*

4. Considering the facts and circumstances and the earlier Judicial pronouncements of this Courts, we have no reason to take a different view. The Government Resolution dated 24.08.2017, will have a prospective effect and will not be made applicable retrospectively. If the benefits that were available to the Petitioners under the earlier Government Resolution and the policy of the State for doing excellent work from 2006 to 2009, such benefits cannot be recovered from the Petitioners. In case a recovery is made, such recovered amount shall be refunded to the Petitioners, within a period of 60 days.

5. With the above observations and directions, the Petition is disposed off.

6. Needless to state, the pensionary benefits would be

revised with the Notional addition of one increment and the same shall be payable to these Petitioners as per the various orders passed by this Court.

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[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]