

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

924 WRIT PETITION NO.2482 OF 2023

ABHAYKUMAR MANIKRAO KULKARNI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

...

AND

925 WRIT PETITION NO.2483 OF 2023

CHANDRASHEKHAR VISHWASRAO DESALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

...

AND

926 WRIT PETITION NO.2484 OF 2023

SHESHRAO BHIMRAO KADAM
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

...

AND

927 WRIT PETITION NO.2485 OF 2023

BHIMRAO RAMRAO DEVKE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

...

AND

928 WRIT PETITION NO.2486 OF 2023

JAGANNATH RAJARAM KOLI
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

...

AND
929 WRIT PETITION NO.2487 OF 2023

SUNIL SURENDRA VASMATKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

...
Advocate for Petitioner : Mr. Sontakke Sandeep B
AGPs for Respondent-State authorities: Mr. P.S. Patil, Mr. S.K
Tambe, Mr S.G. Karlekar, Mr. S.G. Sangle and Mr. V.M. Kagne
Advocate for Respondent Nos. 3 and 4 in WP Nos. 2483 & 2486 of
2023 and for R. Nos. 2 and 3 in W.P. No. 2592 of 2023): Mr. S.R.
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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 3rd 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, in first petition, 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 the respondents, benefit that was accorded to petitioners of excellent work by order dated 05.01.2007 and 20.01.2009 shall not be withdrawn.

(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 “outstanding work” granted to the petitioners by order 05.01.2007 and 20.01.2009 with consequential benefits to the petitioners by fixing reformative six pay scales and for that purpose issue necessary direction or order to the respondents.”

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, 2, 3, and 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, these petitions are 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.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)