

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

957 WRIT PETITION NO.14001 OF 2017

TULJARAM SHAMRAO SIRSAT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Ms. Snehal P. Kulkarni
AGP for Respondents 1 to 3 : Mr. N.T. Bagat
Advocate for Respondents 4 : Mr. A.T. Jagtap
...

**CORAM : ARUN R. PEDNEKER, J.
DATED : 17/02/2023**

PER COURT :

1. The learned counsel appearing for respondents submits that petitioner in this petition is also entitled to the benefits as given to the similarly placed petitioners in Writ Petition No. 642/2011 (Balasaheb s/o. Govindrao Sathe Vs. The State of Maharashtra and Ors.) dated 10.7.2015.
2. In view of the above submissions, the observations made by this Court at para Nos. 22 to 25 in WP No. 642/2011 is made applicable to this case also. Para Nos. 22 to 25 in WP No. 642/2011 are quoted below :

"22 The contention of the learned AGP is that the said amount happens to be a part of the excess salary which is paid to the Petitioners. This difference is noticed after the pay fixation of the Petitioners was carried out. This difference needs to be recovered because it is public money and which the Petitioners cannot retain even under a fortuitous circumstance. I am afraid that the contentions of the learned AGP are not sustainable in the light of the ratio laid down by the Apex Court in Syed Abdul Qadir and the State of Punjab (supra).

23 This Court has also considered a similar situation in Writ Petition No.1677/2014 between the Executive Engineer, MSEDCL v/s Anjali Anil Tare decided on 01.10.2014, reported in 2014(6) BCR 823.

24 In the light of the above, the impugned order dated 29.11.2010 is quashed and set aside. These petitions are being partly allowed and I am not interfering in the impugned order

passed by the Honourable Minister dated 02.11.2004.

25 Needless to state, in the event if any portion of money pursuant to the order dated 29.11.2010 is recovered from any of the Petitioners, the same shall be refunded to the Petitioners within a period of TWELVE WEEKS from today."

3. Thus, similar directions are issued in the present writ petition and it is directed that if there is any money recovered from the petitioner, the same shall be refunded to the petitioner within twelve weeks from today.

3. With the above observations, the writ petition is disposed of.

[ARUN R. PEDNEKER J.]

ssc/