

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**WRIT PETITION NO.755 OF 2014**

1. Suresh Motidev Kesare,  
aged 63 years, occ. Retired,  
r/o Plot No. 49-50, Siddheshwar Wadi,  
Kharbi Road, Nagpur.
2. Laxman Fakruji Barsagade,  
aged 62 years, occ. Retired,  
r/o Vihirgaon, Tq. District Nagpur.
3. Ashok Chintaman Thool,  
aged 63 years, occ. Retired,  
r/o Plot No. 24, Sambhaji Nagar,  
Opposite Madhuban Convent,  
Parsodi, Nagpur.
4. Nanaji Ramrao Kakade,  
aged 63 years, occ. Retired,  
r/o Plot No. 398, Om Nagar,  
near Corporation Zone Office No.5,  
Nagpur.
5. Nandlal Gaurishankar Jaiswal  
aged 63 years, occ. Retired,  
r/o Plot No. 62, Sai Nagar,  
Dighori, Umrer road, Nagpur. .... **PETITIONERS**

**...VERSUS...**

1. The Zilla Parishad, Nagpur, through  
its Chief Executive Officer.
2. The Executive Engineer,  
Construction Division,  
Zilla Parishad, Nagpur.
3. The Divisional Commissioner,  
Nagpur Division, Nagpur.

4. The State of Maharashtra, through  
Secretary, Department of Rural  
Development and Water Conservation,  
Mantralaya, Mumbai 400 032. .... **RESPONDENTS**

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Mr. P. D. Meghe, Advocate for Petitioners.  
Mr. Avdhesh Kesari, Advocate for Respondents 1 & 2.  
Mrs. Kalyani R. Deshpande, AGP for Respondents 3 &  
4/State.  
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**CORAM:** **ROHIT B. DEO AND MRS. VRUSHALI V. JOSHI, JJ.**  
**DATE:** **21<sup>st</sup> MARCH, 2023.**

**ORAL JUDGMENT:** (PER ROHIT B. DEO, J.)

Heard Mr. P. D. Meghe, the learned counsel for the petitioners, Mr. Avdhesh Kesari, the learned counsel for respondents 1 and 2 and Mrs. Kalyani R. Deshpande, the learned Assistant Government Pleader for respondents 3 and 4/State.

2. The petitioners were placed on the pay scale of Rs.5500-175-9000 vide order dated 10.12.2007 on the basis of the Government Resolution dated 08.06.1995 and Circular dated 22.06.2007.

3. The pay scale assigned is reduced vide order dated 26.06.2011. The reduction of the pay scale is on the premise that

the petitioners are entitled to the higher pay scale only from the date of the absorption in the cadre of Civil Engineering Assistants, which is 22.06.2007. According to the petitioners the higher pay scale was rightly granted, *inter alia* in view of the Circular dated 08.06.1994, and that the petitioners having completed the age of 45 years on various dates, were rightly given the benefit of the higher pay scale.

4. We need not delve deeper in the narrative and counter narrative inasmuch as the learned counsel Mr. Kesari for the Zilla Parishad fairly does not dispute the submission of Mr. Meghe that the issue involved is squarely covered by more than one Coordinate Bench decisions in ***Writ Petition 1531/2019 decided on 06.08.2019 (Coram: R.K. Deshpande & Vinay Joshi, JJ.)*** and ***Writ Petition 2009/2018 decided on 30.09.2019 (Coram: Sunil B. Shukre And Milind N. Jadhav, JJ.)***.

5. In view of the fair stand of the learned counsel Mr. Kesari for the Zilla Parishad, we see no difficulty in allowing the petition by declaring that the petitioners were rightly given the higher pay scale on 10.12.2007 and the higher pay scale was erroneously withdrawn in 2011.

6. In view of the declaration *supra*, if there is any recovery ordered pursuant to the decision of reducing the pay scale, the same shall stand quashed.

7. If any amount is recovered from the petitioners on the basis of the reduction of the pay scale in the year 2011, the same be refunded to the petitioners within a period of eight weeks.

8. The petition is allowed in the aforestated terms.

(MRS. VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)

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