



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

938 CIVIL APPLICATION NO. 1350 OF 2024
IN WP/12186/2021

(1) SMT. CHAYA JAGANNATH NANNAWARE AND
(2) SMT. MANJUSHA MADHUKAR GANDHE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Jayant Shyamrao Deshmukh, Advocate for Applicants
Mr. S. K. Tambe, AGP for the Respondents State
Mr. V. M. Vibhute, Advocate for Respondents 3 and 4

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 2nd February, 2024

ORDER:

1. By this Civil Application, the Petitioners are citing the order passed by this Court on 17.02.2023 in Writ Petition No. 10153 of 2022 and the order passed by the Hon'ble Supreme Court, dated 05.09.2023, by which the Special Leave to Appeal (C) No. 17170 of 2023, filed by the Chief Executive Officer, has been dismissed. It is stated that same order be passed.

2. The learned Advocate for the Zilla Parishad points out that in the cited orders, the Petitioners had retired and thereafter the recovery was initiated. In the present case, the recovery was initiated vide order dated 18.11.2017. Re-pay fixation was carried out by order

dated 13.05.2019. The Petitioners belong to the Class III category and they superannuated on 31.08.2023 and 31.12.2023, respectively which is after six years of the recovery. He submits that the recovery was not at the verge of retirement.

3. In view of the above, we conclude that the facts pertaining to these Petitioners are different than the facts emerging in the order dated 17.02.2023 passed in Writ Petition No. 10153 of 2022 (Smt. Mangal d/o Rangnath Bhadagare and another Vs. The State of Maharashtra and another). **The Civil Application is, therefore, rejected, to this extent.**

4. Needless to state, the Writ Petition would be considered on its own merits and the rejection of this Civil Application would not be an impediment.

5. The learned Advocate for the Petitioners submits that the dispute as regards the difference on account of pay re-fixation may be considered in the Petition. At least, the Pension on the undisputed pay-scale may be commenced and the retiral benefits calculated on such undisputed pay-scale, may be cleared keeping in view that the Petitioners have superannuated on 31.08.2023 and 31.12.2023, respectively. We find the said prayer of the Petitioners to be fair and the Zilla Parishad needs to consider the same. We direct the Zilla

Parishad to clear the pensionary benefits and retiral benefits of the Petitioners based on the undisputed pay-scale, post pay re-fixation. The challenge to the pay re-fixation would be considered in the Writ Petition.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan