



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 8247 OF 2024
IN / WITH
REVIEW APPLICATION (CIVIL) (ST) NO. 6952 OF 2024
IN
WRIT PETITION NO. 225 OF 2024

THE COMMISSIONER MUNICIPAL CORPORATION AURANGABAD
VERSUS
KRANTI ANAND DESHMUKH AND OTHERS

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Mr. S. P. Urgunde, Advocate for the Applicant
Ms A. N. Ansari, Advocate for Respondent No.1
Mr. R. S. Wani, AGP for the Respondent – State

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**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 12.08.2024

PER COURT :-

1. Heard the learned Advocates for the respective sides.
2. For the reasons set out, the delay of 25 days is condoned. The **Civil Application is disposed off.**
3. By consent of the parties, we have considered the Review Petition, forthwith. The learned Advocate for the Review

Applicant / Municipal Corporation has vehemently canvassed the grounds (I - V) set out in the memo of the Review Petition. It is contended that time and again, extension was granted to the Petitioner to submit her MS-CIT certificate. She has failed to place it on record. An undertaking was tendered on 22.11.2021. The Petitioner retired on 30.09.2023. The undertaking was taken around 22 months prior to her retirement.

4. There is no dispute that the Petitioner was paid additional increments, since 2008. According to the Corporation, the mistake was noticed after the retirement of the Petitioner. The undertaking was taken around 22 months prior to the retirement of the Petitioner. Be that as it may, in August 2021, the Petitioner tendered her MS-CIT certificate.

5. We have dealt with the above issue in paragraph Nos.4 and 5, of our order dated 09.01.2024, which read as under:-

*“4. We have referred to the law laid down by the Hon'ble Supreme Court in **High Court of Punjab and Haryana and others vs. Jagdev Singh** (supra). However, the record reveals that no undertaking was taken from the Petitioner when the pay scale was revised. An undertaking has to be taken from the candidate on the day the revised pay scale is made*

*applicable to her and the payment commences. At the stroke of superannuation of the said employee, asking her to tender an undertaking, practically amounts to an afterthought on the part of the employer and a mode of compelling the candidate to execute an undertaking since she is apprehensive that her retiral benefits would not be released until such undertaking is executed. Such an undertaking will not have the same sanctity of an undertaking executed when the payment of revised pay scale had commenced. We, therefore, respectfully conclude that the view taken in **High Court of Punjab and Haryana and others vs. Jagdev Singh (supra)**, would not be applicable to the case of the Petitioner, more so since the recovery is initiated after her superannuation.*

5. Taking into account that the Petitioner was not involved in any mischief, fraud or deceit in orchestrating her wrongful pay revision, the law laid down by the Hon'ble Supreme Court in **Syed Abdul Qadir vs. State of Bihar and others, 2009 (3) SCC 475** and **State of Punjab and other vs. Rafiq Masih (White Washer) etc. (2015) 4 SCC 334 = AIR 2015 SC 696**, would apply to this case.”

6. Apparently, the Petitioner started receiving her benefits from 2008. On 22.11.2021, an undertaking was taken from her and she superannuated on 30.09.2023.

7. Considering the above and our observations in paragraph Nos. 4 and 5 reproduced above, we do not find any ground raised by the Review Applicant to be worthy enough of reviewing the order dated 09.01.2024.

8. In view of the above, **the Review Petition is dismissed.**

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

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