



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

WRIT PETITION NO. 5422 OF 2024

ASHOK HARISHCHANDRA NANDESHWAR

VERSUS

**THE UNION OF INDIA THROUGH MINISTRY OF LABOUR AND
EMPLOYMENT AND OTHERS**

....

Mr. M. R. Deshmukh, Advocate for Petitioner

Mr. R. B. Bagul, Advocate for Respondent No.1

Mr. N. K. Chaudhari, Advocate for Respondent Nos. 2 and 3

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

DATE : 01.07.2024

PER COURT :-

1. We have heard the learned Advocates for the respective sides. After a long hearing, we granted a pass-over to the learned Advocate for the Regional Provident Fund Commissioner (R.P.F.C.), for taking instructions.

2. The learned Advocate for the R.P.F.C. submits on instructions, that the impugned orders dated 04.01.2024 and 20.02.2024, would be kept in abeyance. The Petitioner would be

served with a show-cause notice along with relevant material. After considering his reply, a reasoned order would be passed.

3. In view of the above, it would be appropriate to make a mere mention of certain facts. The Petitioner has been subjected to a departmental enquiry under Rule 10 of the Employees' Provident Fund Staff (Classification, Control and Appeal) Rules, 1971, vide the office memo, dated 11.08.2022. After concluding, the Enquiry Officer's report was tendered holding the Petitioner guilty of the charges of over payment with reference to 36 cases. Pursuant thereto, by following the due procedure, the Petitioner was issued with a well reasoned order of punishment, dated 25.08.2023, by awarding him the punishment in the form of a penalty viz; "reduction to lower stage by three stages in time scale of pay for a period of three years, during which he will not earn increments of pay and on expiry of such period, reduction will have the effect of postponing future increments of his pay", as laid down in Rule 7(v) of the EPF (CC & A) Rules, 1971.

4. It is after the above stated order was passed, that the authorities issued two fresh orders dated 04.01.2024 and 20.02.2024,

directing recovery of a total amount of Rs.13,64,592/- from the salary of the Petitioner. The Petitioner's contention is that the recovery of this amount is not in relation to the 36 cases which were subject matter of the Departmental Enquiry.

5. In view of the above, **this Writ Petition is disposed off.** Let Respondent No.2 issue a show cause notice to the Petitioner along with relevant material. Reasonable opportunity of submitting written explanation would be offered. After the written explanation is received, a reasoned order be passed by following the due procedure laid down in law.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

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