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

WRIT PETITION NO. 6433 OF 2024

**SALIM PASHA BASHIRUDDIN
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

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Mr S. B. Sontakke, Advocate for Petitioner;
Mr V. M. Kagne, A.G.P. for Respondent Nos.1 & 2
Mr U. B. Bondar, Advocate for Respondent Nos.3 & 4

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

DATE : 2nd July, 2024

PER COURT:

1. The Petitioner has put forth prayer clauses (B) and (C), which read as under :-

“B) By issuing writ of Mandamus or any appropriate writ, order or direction in like nature, to direct the respondents to Re-fix the pay-scale of petitioner thereby including additional increments as per the order dated 22.12.2008 in view of the orders of this hon’ble court in Writ petition no. 14875/2023 dated 07.12.2023.

C) By issuing writ of mandamus or any other appropriate writ, order or direction in like nature. The respondents may be directed to pay monetary benefits of additional

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increments for “outstanding work” granted to the petitioner by order 22.12.2008 with consequential benefits to the petitioner by fixing reformative six pay scales and for that purpose issue necessary direction or order to the respondents and to refund the amount recovered from the petitioners if any.”

2. Issue notice to the Respondents, returnable forthwith.

The learned A.G.P. waives service of notice on behalf of Respondent Nos.1 and 2. Shri. Bondar, the learned Advocate waives service of notice on behalf of Respondent Nos.3 and 4.

3. We are made aware that orders have been passed by this Court at the Principal Seat, dated 04/05/2021 in Writ Petition (St.) No.1438/2021, filed by Sanjiv R. Patil and others Vs. State of Maharashtra and others, and dated 22/10/2020 in Writ Petition No.4050/2017, filed by Uday J. Godave and others Vs. State of Maharashtra and others and similar other several matters. This Petition can be disposed off in the light of the directions issued in the said orders.

4. In Sanjiv R. Patil (supra), it has been held in paragraph Nos.4 to 6 as under :-

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“4. The Petitioners are employees of Zilla Parishad, Sangli. Pursuant to the G.Rs. dated 11th February 1974 and 20th June 1989, the Petitioners, in view of their outstanding work, were granted either one or two advance increments as on 1st October 2006, 1st October 2007 and 1st October 2008. The Petitioners state that the Respondent – State, however, by Circular dated 3rd July 2009 instructed to fix the pay in a revised pay scale as per the recommendation of Sixth Pay Commission without taking into consideration advance increments granted on 1st October 2006, 1st October 2007 and 1st October 2008. It is stated that the Respondent – State, then issued the G.R. dated 24th August 2017 and reiterated the instructions issued by Circular dated 3rd July 2009. The contention is accrued and vested rights of the Petitioners cannot be taken away by the impugned G.R.

5. This Court (Aurangabad bench) in Writ Petition No. 14797 of 2017 (Ganpat Vitthal Dapute and Ors vs. The State of Maharashtra and ors) vide its order dated 11th June 2019, held that the G.R. dated 24th August 2017 will have prospective effect. This Court, accordingly, held that the benefit of advance increments granted as per the policy of the Government prevailing at that time, the same would not be withdrawn on the basis of subsequent G.R. dated 24th August 2017. We have taken the similar view in Writ Petition No. 4050 of 2018 decided on 22nd October 2020.

6. The learned counsel for respondent No.4 submits that respondent No.1 had by communication dated

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4.12.2020 directed them to seek review of the order passed by this court in aforesaid writ petition. However, in absence of any interim stay order, we do not see any reason to refuse identical relief to the petitioners. In the result, we pass the following order.

- a. The Respondents are directed to accord the benefit of advance increments granted to the Petitioners as per the policy of the Respondent – State dated 11th February 1974 and 20th June 1989 in the revise Sixth Pay Scale without giving any effect of subsequent Circular dated 3rd July 2009 and G.R. dated 24th August 2017.*
- b. Recovery, if any, made pursuant to the Circular dated 3rd July 2009 or G.R. dated 24th August 2017 from the Petitioners shall be refunded to them.*
- c. Rule made absolute accordingly.*
- d. No order as to costs.”*

5. In Uday J. Godave (supra), it has been held in paragraph No.6 as under :-

“6. This Court (Aurangabad bench) in Writ Petition No. 14797 of 2017 (Ganpat Vitthal Dapute and Ors vs. The State of Maharashtra and ors) vide its order dated 11th June 2019, held that the G.R. dated 24th August 2017 will have prospective effect. This Court, accordingly, held that the benefit of advance increments granted as per the policy of the Government prevailing at that time, the same would not be withdrawn on the basis of subsequent G.R. dated 24th August 2017. Considering the fact that the Respondent – State has not yet taken any policy decision with regard to issue in

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question, we are constrained to pass similar order. In the result, we pass the following order.

a. The Respondents are directed to accord the benefit of advance increments granted to the Petitioners as per the policy of the Respondent – State dated 11th February 1974 and 31st October 1989 in the revise Sixth Pay Scale without giving any effect of subsequent Circular dated 3rd July 2009 and G.R. dated 24th August 2017.

b. Recovery, if any, made pursuant to the Circular dated 3rd July 2009 or G.R. dated 24th August 2017 from the Petitioners shall be refunded to them.

c. Rule made absolute accordingly.

d. No order as to costs.

e. This order will be digitally signed by the Private Secretary of this Court. All concerned will ct on a digitally signed copy of this order.”

6. The learned Advocate representing the Respondents/ Zilla Parishad, submits that some Zilla Parishads had filed Review Applications against similar orders, which are now dismissed.

7. The order of this Court dated 18/07/2022, was passed placing reliance on the Judgment delivered on 01/04/2021, in Writ Petition No.12531/2019, filed by Raosaheb Shripati Desai and others Vs. State of Maharashtra and group of matters. The said Judgment dated 01/04/2021, was carried in Special Leave Petition

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(Civ.) No.10789/2022. By an order dated 20/07/2022, the Hon'ble Supreme Court (three Judges Bench) dismissed the Special Leave Petition.

8. The payment to the present Petitioner was commenced earlier. Subsequently, it was stopped. The amount that was earlier paid, has been recovered.

9. In view of the above, **this Writ Petition is disposed off.** Considering the said fact situation and the delay caused, we are only directing the Respondent/Zilla Parishad, Aurangabad, to refund the amount recovered from the Petitioner within a period of 60 days from today and pay the arrears of the unpaid amount, without interest, within a period of 90 days. If the said amount is not paid within 90 days, interest @ 6% p.a. from the date of the filing of this Writ Petition would be granted and the said amount shall be recovered from the salary of the Officer, who has caused the delay in making such payment.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)