



(1)

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

911 WRIT PETITION NO. 12501 OF 2023

KALPANA SHANTWAN SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

AND
WRIT PETITION NO. 11395 OF 2021

SMT. ULKA RATNAKAR BANSODE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr D. R. Irale Patil, Advocate for Petitioners;
Mr S. B. Narwade and Mr P. K. Lakhotiya, A.G.Ps. for
Respondent No.1/State in respective Petitions
Mr V. C. Patil, Advocate h/f Mr U. B. Bondar, Advocate for
Respondent Nos.2 to 4 in WP/12501/2023
Ms Supriya L. Pansambal, Advocate for Respondent Nos.2 and 3
in WP/11395/2021

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

DATE : 24th January, 2024

PER COURT:

1. The second Writ Petition No.11395/2021 was not on board. The learned Advocate for the present Petitioner, appears in the said matter as well, on behalf of the Petitioner and prayed that the matters be taken up for disposal.

(2)

2. The present Petitioner Kalpana Shantwan Shinde, is identically placed with the Petitioner in Writ Petition No.11395/2021, namely, Ulka Ratnakar Bansode. By an order dated 01/09/2023, we had passed a detailed order, concluding that an undertaking extracted from the retiring employee, meaning thereby, at the stroke of retirement or after retirement, is not to be considered, for the reason that the said undertaking apparently is extracted when the employee is about to retire and has no bargaining power. We have, therefore, concluded in Ulka Ratnakar Bansode (supra) that the recovered amount should be returned to the Petitioner along with interest @ 6% p.a. from 01/02/2022 till 15/10/2023, within a period of 45 days.

3. The learned Advocate for the Petitioners relies upon a judgment delivered by the Hon'ble Supreme Court in **Bhagwan Shukla Vs. Union of India and others, AIR 1994 SCC 2480**, concluding that the pay-scale cannot be reduced or altered to the prejudice of the employee, without affording an opportunity of hearing to the said employee. Apparently, in the present two cases, an opportunity of hearing was not granted to the Petitioners.

(3)

4. In view of the above **both these Writ Petitions are partly allowed.** The impugned order of revising pay-fixation of the Petitioners by Respondent No.3, shall stand set aside. We permit the Respondent/Zilla Parishad to issue notices to both these Petitioners giving them at least 15 days time to reply. The Petitioners shall tender their written replies/written submissions within the said period. Thereafter, the Zilla Parishad would pass a reasoned order by considering the entire record available. If the Petitioners are aggrieved by the revised pay-fixation order, they are at liberty to assail the same by resorting to a remedy, as is permissible in law.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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