

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.17960 OF 2024**

Harshwardhan Govind Nachane and Ors.Petitioners

Versus

The State of Maharashtra and Ors.Respondents

Mr. Satish S. Raut for the Petitioners.

Mr. P.P. Kakade, Addl. GP a/w. Mrs. Reena Salunkhe, AGP for
Respondent Nos.1 and 2.

Mr. Anand Kulkarni for Respondent Nos.3 and 4.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 9th DECEMBER, 2024

ORAL FINAL ORDER (Per Ravindra V. Ghuge, J.) :-

1. All the Petitioners are identically placed. The learned
Advocate representing the Respondent Zilla Parishad, Solapur
agrees.

2. The Petitioners are employees who were working with
the Respondent Zilla Parishad and have superannuated from
employment. All of them were subjected to recovery of amounts,
purportedly for the reason that excess amounts were paid to them,
under wrongful revised pay scales/erroneous revised pay scales,

calculated on the basis of acquiring the certificate of MS-CIT etc.

These pay scales were revised more than a decade ago.

3. The grievance of these Petitioners is that recoveries have been initiated against them, from their retiral benefits/pensionary benefits. In some cases, amounts have already been recovered. A chart showing the details of the petitioners, their dates of superannuation, dates of impugned orders and amounts recovered from their retiral benefits/pensionary benefits, are as under :

Sr. No.	Retired Teacher's Name	Amount Of Recovery (In Rupees)	Retired Date	Z.P. School	Date Of Impugned Order
1	Harshwardhan Govind Nachane	683965	31/05/2024	Akluj	02/06/2024
2	Mahabaleswar KedarLing kumbhar	46560	31/11/2019	Malshiras	20/12/2019
3	Surekha Prakash Bagade	94466	31/05/2023	Borgaon	04/12/2017
4	Shailaja Narayan Jadhav	283789	31/05/2023	Tandulwadi	02/05/2024
5	Kayamsaheb Hajratnur Kazi	13987	31/05/2019	Isalmpur	27/01/2020
6	Anna Rama Helkar	23013	31/05/2018	Tirvandi	29/05/2018
7	Uttam Lahu Bhosale	7818	31/05/2020	Borgaon	09/11/2020
8	Mahananda Abasaheb	140561	31/05/2023	Morochi	17/12/2019

	Karche				
9	Rohini Changdev Gund	41368	31/07/2019	Velapur	30/12/2019
10	Kisan Baba Kokare	26499	31/05/2019	Papri	10/08/2018
11	Jayshri Sharad Khataavkar	9542	31/05/2020	Pisewasti Giravi	07/02/2020
12	Madhukar Pandurang Pawar	60386	31/05/2023	Aandhalgaon	17/07/2015
13	Tukaram Revanshiddha Nigadi	23958	31/05/2019	Mangalvedha	04/01/2020
14	Rajshri Sandipan Mane	97512	28/02/2019	Kurduwadi	29/05/2019
15	Kamodini Vitthal Dhobale	142399	31/05/2005	Kanya Malshiras	03/10/2006
16	Anagha Anil Ajotikar	38852	31/01/2015	Islampur	15/04/2015
17	Mohan Vitthal Shelake(Deceased) Latika Mohan Shelake	168533	03/12/2022	Motewadi	21/09/2023
18	Bhausahab Dattatray Kulkarni	44868	31/05/2017	Adegaon	14/07/2017
19	Jayshri Nandkumar Dahival	7682	31/05/2023	Markadwadi	16/12/2020
20	Shikandar Mahamud Mujawar	47148	31/05/2023	Garwad	24/09/2023
21	Pradipkumar Vasant Uplekar	18124	31/03/2018	Ropale	10/09/2018
22	Suresh Bhanudas Dudhal	267371	12/12/2022	Pisewasti Giravi	26/09/2023
23	Hanif Abdulrahim	23958	31/05/2018	Kurduwadi	09/08/2018

	Mulla				
24	Baidabai Eknath Chavan	314474	31/05/2022	Dobasewasti Velapur	01/09/2023
25	Raju Jagganath Ghadage	116606	31/05/2023	Pisewadi	09/12/2023
26	Bebinanda Dagadu Pawar	7600	28/02/2023	Kashegaon Pandharpur	01/09/2023
27	Maruti Mahadev Khupase	7628	30/06/2019	Khudus	23/10/2019

4. We have considered the strenuous submissions of the learned Advocates. It is, however, undisputed that none of these Petitioners had played any fraud or were personally involved in wrongful revision of their pay scales or orchestrating wrongful revision by manipulating the record. There is no allegation of fraud or deceit against any of them. No undertaking was acquired from them as and when the revised pay scale become payable. In some cases, at the stroke of retirement, a condition was imposed that they should execute an undertaking and in these coercive circumstances, that undertaking were extracted from some of them.

5. The learned Advocate representing the Zilla Parishad as well as the learned AGP, submit that once an undertaking is executed, the case of the Petitioners would be covered by the law laid down by the Hon'ble Supreme Court in *High Court of Punjab*

and Haryana and others vs. Jagdev Singh, 2016 AIR (SCW) 3523.

Reliance is placed on the judgment delivered by this Court on 1st September, 2021, ***in Writ Petition No. 13262 of 2018 filed by Ananda Vikram Baviskar Vs. State of Maharashtra and others.***

6. 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 these Petitioners when the pay scales were revised. The undertakings from some of them were taken at the stroke of their retirement.

7. An undertaking has to be taken from the candidate on the day the revised pay scale is made applicable to him and the payment commences. At the stroke of superannuation of the said employee, asking him 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 they are apprehensive that their 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 these Petitioners, more so since the recovery is initiated after their superannuation.

8. Taking into account that these Petitioners were not involved in any mischief, fraud or deceit in orchestrating their 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.

9. The **Writ Petition is partly allowed**. The impugned orders are quashed and set aside. The amounts due and payable to the Petitioners, as well as to the widows and other legal heirs, if that is the case, after the superannuation of the said employees/death of the employees, would be paid to these Petitioners or their widows or other legal heirs, if that is the case, within a period of 90 days.

10. The learned Advocate for the Petitioners submits, on instructions, that the Petitioners would not claim any interest on the amount which has already been recovered from them, to the extent of it's repayment. In view thereof, if the amounts are not paid within 90 days, interest at the rate of Rs.5% p.a. from the date of this order, will be paid.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)