

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2417 OF 2019

Mrs. Shubhda W/o Sunil Kulkarni

...Petitioner

Versus

The State Of Maharashtra And Ors.

...Respondents

Mr. Abhijeet J. Kandarkar, for Petitioner.

Mr. Rajesh S. Datar, for Respondent Nos.2 & 3.

Mr. M.M. Pabale, AGP for Respondent Nos.1, 4 & 5.

CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.

DATE : 14 MARCH 2024

P.C.:

. The Petitioner was working as Registrar, Family court Pune. The Petitioner has retired on superannuation on 28 February 2017. The Petitioner has sought the following reliefs by way of this petition.

B) Issue a Writ of Mandamus or any other appropriate Writ, Order or directions in the like nature, directing the respondents to forthwith refund an amount of Rs.3,74,780/- (Rupees Three Lakhs Seventy Four Thousand seven hundred eighty only) along with interest at the rate of 9 per cent per annum from the date of recovery of the said amount till realization of the said amount and for that purpose issue necessary orders;

C) The respondent No. 4 be directed to refix the pension of the petitioner after taking into consideration one increment which was granted to the petitioner while fixing her pay on promotion of the petitioner from the post of Superintendent to the post of Deputy Registrar w.e.f. 4.3.2009 and calculate the arrears and pay the same to the petitioner forthwith and for that purpose issue necessary orders.”

2. As regards prayer B) is concerned, we do not find any specific order communicated to the Petitioner before the action was taken. As regards prayer clause C), it is direction to the State to take into consideration one increment while fixing pay on promotion. On this prayer also we do not find any decision by the State. That be the position, it is from the record we have to find out what are the reasons for recovery and why one increment was not considered while fixing pay on promotion. Though learned counsel for the High Court Administration points out that the Petitioner has the remedy of filing an administrative appeal, since there is no specific communication/order, the remedy of filing an appeal will also be not effective.

3. In these circumstances, we direct that the petition filed by the Petitioner shall be considered as representation by Respondent No.3 and Respondent No.4 and both these authorities will after considering the averments made in this petition communicate their response with reasons to the Petitioner preferably within a period of 8 weeks, subject to other pressing public duties.

4. It is open to the Petitioner to file supplementary representation, if any, that is to be filed within a period of 2 weeks. If such supplementary representation is filed, the same will be considered along with copy of the petition.

5. Writ petition is accordingly disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)