



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No.8320/2022
(Prakash and others V the State of Maharashtra and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

~~Mr. B.B. Pantavane~~, Mr. B.C. Chandrakapure and Mrs. Tanuja Mukta, Advocates for petitioners.

Ms. Shruti R. Waghade, Advocate h/f Ms. Gayatri M. Reve, Advocate for resp. no.3.

Mr. Ghogre, AGP for respondent nos. 1 and 2.

(Name of parties corrected as per Court's order dated 08-02-2024 passed in CAW No.357/2024 and CAW No.430/2024 respectively.)

CORAM : Nitin W. Sambre & Abhay J. Mantri, JJ

DATE : 23-01-2024.

The petition is filed by the employees of respondent no.3 for issuance of directions to restrain the employer from recovering the advance increments granted.

2. We are informed that the issue was dealt with by this Court while deciding Writ Petition No. 6317/2019 decided on 06-06-2019. This Court has noted that the Government Resolution dated 24-08-2017 which is formed the basis for ordering recovery from the petitioners has to be given prospective effect and not retrospective effect. That being so, the recovery cannot be effected from the petitioners.

3. It is claimed that the issue is squarely covered by the aforesaid judgment so also the order dated 22-12-2021 delivered in writ Petition No.3614/2020.

4. The aforesaid position is not disputed by the learned Counsel for respondent no.3.

5. In that view of the matter, once it is already held that by way of Government Resolution dated 24-08-2017 the petitioners have to be given prospective effect, the recovery cannot be effected from the petitioners.

6. As such, for the reasons disclosed in the order dated 06-06-2019, delivered in Writ Petition No.6317/2019, we deem it appropriate to allow the present petition. We hereby declare that the language of the Government Resolution dated 24-08-2017 is prospective and not retrospective.

7. The respondent no.3 is directed to examine the case of the petitioners in the light of the aforesaid Government Resolution which is held to be prospective and take appropriate decision in the matter. The order be passed after hearing the petitioners as in case if the recovery is to be ordered against the petitioners.

8. We deem it appropriate further to direct in case, if recovery is effected prior to the issuance of the Government Resolution from the petitioners, same be refunded to the petitioners within three months from today.

9. The petition stands partly allowed.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)