

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CONTEMPT PETITION NO. 240 OF 2024
WITH
INTERIM APPLICATION ST. NO. 17800 OF 2024**

Sanjay Popatrao Kaware ... Petitioner
Versus
State of Maharashtra Respondent

**ALONG WITH
CONTEMPT PETITION NO. 241 OF 2024
WITH
INTERIM APPLICATION ST. NO. 17012 OF 2024**

Vishalsing Ravindrasing Rajput ... Petitioner
Versus
State of Maharashtra Respondent

Mr. Narendra Bandiwadekar a/w Mr.Vinayak R. Kumbhar, Mr.Rajendra B. Khaire, Mr.Aniket S. Phapale i/b Ms. Ashwini N.Bandiwadekar, for the Petitioners.

Mr. A.I. Patel, Addl. GP a/w Mr. S.B.Kalel, AGP, for the Respondent-State in CP/240/2024.

Mr.A.I. Patel, Addl. GP a/w Mr. P.N. Diwan, AGP for State in CP/241/2024.

Dr. Milind Sathe, Senior Counsel a/w Mr.Jitendra Jagtap, for Respondents No. 2 & 3.

Mr. Nikhil G. Hire i/b Mr.Ranjeet Patil, for Intervener in IAST/17800/2024.

**CORAM : M.S.KARNIK &
ASHWIN D. BHOBE, JJ.**

DATE : 18th MARCH, 2025

P.C. :

1. The petitioners allege breach of the order dated 05/04/2023 passed by this Court in Writ Petitions No. 11368 of 2022 and 11369 of 2022. The order of the Division Bench dated 05/04/2023 reads thus :

“1. The learned Counsel for the Petitioner submits that the Petitioners are discharging their duties with the Maharashtra Pollution Control Board (the "Board"). The Petitioners are entitled for the salary as per the 7th Pay Commission. The 7th Pay Commission is implemented by the Board. The said fact is accepted by the learned Counsel for the Respondents also.

2. Today, the Petitioners are in service. If the present Petitioners are in service with the Respondent Board, then till the period they are serving, naturally, the Petitioners are entitled for the benefits attached to their posts.

3. Considering the above, the Respondent - Board may give the service benefits attached to the posts on which the Petitioners are serving.

4. With the above directions, the Writ Petitions are disposed of. No costs.”

2. Learned counsel Shri Bandiwadekar for the petitioners submits that the petitioners who are working as ‘Field Officer’ were appointed by the order dated 06/11/2009 on probation in the pay band of Rs.9300-34800/- with a grade pay of Rs.4300/-. This was in terms of pay fixed by the 6th Pay Commission Recommendation. Shri Bandiwadekar submits that by virtue of the order passed by the Division Bench of this Court, the petitioners should be paid in terms of the 7th Pay

Commission Recommendation which the respondent no.2 – Board has not paid.

3. Mr. Sathe, learned senior counsel for the respondent-Board invited our attention to the order dated 22/01/2018 passed by this Court (Bench at Aurangabad) which was a challenge made to the appointment of the petitioners and others. Our attention is invited to the operative portion of the said order which reads thus :

“(i) Civil Application No.11152 of 2013 in Writ Petition No.7841 of 2009 seeking intervention is allowed.

(ii) The entire selection process conducted by the Maharashtra Pollution Control Board pursuant to the advertisement dated 21st January 2009 issued by the Maharashtra Pollution Control Board and all appointments made pursuant to the said advertisement and also pursuant to the said selection procedure which is the subject matter of the aforesaid writ petitions are quashed and set aside;

(iii) Maharashtra Pollution Control Board is directed to commence the process of filling up the posts advertised on 21st January 2009 and also to fill up additional posts fallen vacant or sanctioned from the date of the advertisement dated 21st January 2009 till the date of issuing fresh advertisement and to complete the selection process within four months from the date of this order;

(iv) It is made clear that till the fresh selection / process is complete, the existing employees who are appointed by the Maharashtra Pollution Control Board which are the subject matter of these petitions shall not be removed from service and no recoveries shall be made from their salaries. None of the employees however shall be granted any promotion or any other benefits which is not due to them during the process of completion of selection procedure;

(v) All the petitioners and existing employees who were appointed by Maharashtra Pollution Control Board pursuant to the

advertisement dated 21st January 2009 or otherwise which are the subject matter of these petitions can apply for such post if they are eligible pursuant to the advertisement that may be issued by Maharashtra Pollution Control Board. Appointments of all such candidates shall be made by Maharashtra Pollution Control Board in accordance with law after complying with the requisite procedure;

(vi) Maharashtra Pollution Control Board is directed to pay costs of Rs. 1 lakh in five sets payable to the petitioner/s in each of the aforesaid judgment without fail.

(vii) Rule is made absolute in aforesaid terms.”

4. Shri Sathe, learned senior counsel submitted that the order dated 22/01/2018 was also challenged by the respondent-Board before the Hon’ble Supreme Court. The Hon’ble Supreme Court on 09/04/2018 passed the following order.

“Upon hearing the counsel the Court made the following

ORDER

Issue notice.

Learned counsel appearing for respective respondents accept notice on their behalf. They may file reply within four weeks.

List these matters after four weeks.

In the meantime, operation of Clauses 2, 3, 5 and 6 of the operative portion of the impugned order shall remain stayed.”

5. Shri Sathe submits that the difficulty of the respondent-Board is that the Hon’ble Supreme Court has not stayed clause (iv) of the operative part of the order passed by the Division Bench dated 22/01/2018 and therefore, in his submission the respondent no.2-Board is

not required to pay the salary in terms of the 7th Pay Commission Recommendation, as the order passed by the Division Bench, which is allegedly breached, only says that the Board may give the service benefits attached to the posts on which the petitioners are serving.

6. However, Shri Sathe fairly submits that if this Court is inclined to direct the respondent no.2 – Board to pay the benefits of the 7th Pay Commission Recommendation, the Board does not seriously oppose this. Shri Sathe submitted that the respondent no.2 -Board is essentially concerned that they do not commit any breach of clause (iv) of the order dated 22/01/2018. We see no reason why clause (iv) of the order passed by the Division Bench will be breached if the benefits of 7th Pay Commission Recommendation are to be granted to the petitioners. This Court in terms of clause (iv) has not restrained the respondent no. 2- Board from granting benefits in terms of the 7th Pay Commission to the petitioners. The Division Bench of this Court on 05/04/2023 has observed that the 7th Pay Commission is implemented by the Board. In view of the fair stance of the respondent no.2-Board, the present contempt petitions are disposed of. In view of the observations made hereinabove, the respondent no.2- Board would be required to comply with the order dated 05/04/2023 passed by this Court. Clause (iv) does

not in any manner come in the way of the Board granting salary as per 7th Pay Commission Recommendation to the petitioners. Respondent No.2-Board thus will pay to the petitioners salary as per 7th Pay Commission Recommendation applicable to the posts occupied by the petitioners.

7. In the light of the observations made by us and the stand taken by the respondent no.2-Board, contempt petitions are not pressed. The benefits be granted and the arrears be paid within eight weeks from today.

8. We do not find any reason to entertain the interim applications for intervention in these contempt petitions. It is open for the interveners to adopt the remedies available under the law.

(ASHWIN D. BHOBE, J.)

(M.S.KARNIK, J.)