

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2476 OF 2025**

Krushna Bhaurao Kokate and Ors.Petitioners

Versus

The State of Maharashtra and Ors.Respondents

Mr. Sandeep B. Sontakke for the Petitioners.

Mr. V.G. Badgujar, AGP for Respondent No.1.

Ms. Priyanka Chavan for the Respondent - Solapur Zilla Parishad.

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

DATE : 24th FEBRUARY, 2025

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 the employees who were working with the Respondent Zilla Parishad and 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.	Name of the Petitioners	Date of Superannuation	Amount Recovered from the Petitioners
1	Krushna Bhaurao Kokate	30.06.2020	47,811/-
2	Shaila Vinayak Kulkarni @ Shaila Dattatraya Hatvalane	31.05.2021	53,279/-
3	Nasimbanu Dastagir Mujawar	30.11.2022	48,712/-
4	Musa Babasaheb Kotwal	31.05.2021	53,799/-
5	Tukaram Namdev Jadhavar	31.05.2019	27,140/-
6	Harinarayan SHivdas Miragane	31.05.2023	53,758/-
7	Ashok Laxman Ghuge	31.05.2022	38,279/-
8	Shrikrushn Dharmaraj Bhosale	31.05.2022	49,021/-
9	Shamsundar Chandrahas Shinde	31.05.2024	45,071/-
10	Shivaji Sadashiv Hawale	30.11.2024	48,361/-
11	Bhiku Rohidas Sabale	31.05.2021	1,49,856/-

12	Vishwasrao Apparao Jagdale	01.08.2021	17,166/-
13	Shridhar Uddhav Gore	01.07.2021	45,592/-
14	Sangita wd/o. Madhukar Avate	04.12.2021	43,134/-
15	Sunita Vasantrao Jagdale	18.05.2021	44,284/-
16	Tukaram Birmal Masal	31.05.2020	49,256/-
17	Subhash Dnyandeo Mule	31.05.2020	48,901/-
18	Anagha Arun Ramdasi	31.05.2018	29,686/-
19	Dayanand Basappa Birajdar	31.05.2023	5,17,507/-
20	Ratan Devarao Londhe	28.02.2017	1,20,746/-
21	Somnath Jotiram Survase	31.05.2023	44,041/-
22	Ramhari Maruti Yele	31.05.2023	43,704/-
23	Shankar Vithoba Shinde	31.05.2023	1,17,758/-
24	Vilas Vishwanath Kshirsagar	31.11.2023	46,044/-
25	Gokul Mahadev Surwase	31.05.2023	48,475/-
26	Sunita Somnath Gurav	31.07.2021	40,592/-
27	Aniruddha Baburao Mokashi	21.05.2024	54,820/-
28	Indumati Shahu Mali	31.05.2024	2,82,945/-
29	Shobha wd/o. Bharat Dhage	15.02.2020	2,31,841/-
30	Radhika wd/o. Bharat Nande	01.07.2020	76,099/-
31	Nagnath Pralhad Jadhav	30.04.2021	49,024/-
32	Renuka wd/o. Somnath Nevase	16.09.2021	2,01,926/-
33	Shakuntala wd/o. Shridharrao Rote	31.05.2018	24,480/-
34	Dattatray Mahadev Waghmare	31.05.2024	44,583/-
35	Prakash Bibhishan Sawant	31.05.2023	1,20,957/-
36	Sahebrao Prabhu Shivane	31.05.2024	54,820/-
37	Subhash Bapurao Shinde	31.05.2024	46,044/-
38	Shafiya Dastgir Mujawar	31.05.2022	43,704/-

39	Bhausahab Suryabhan Chavan	31.05.2023	45,458/-
40	Rajkumar Satyawar More	31.05.2023	2,85,190/-
41	Tanaji Laxman Mohite	31.05.2024	1,10,220/-
42	Ushadevi Balbhim Mali	31.08.2018	21,510/-
43	Jalindar Pandurang Survase	31.05.2024	95,954/-
44	Sarjerao Dattatraya Thorat	31.05.2024	48,377/-
45	Vilas Sarjerao Mane	31.05.2024	47,891/-
46	Shridhar Rama Dabhade	31.05.2024	23,174/-
47	Rajaram Vasant Kore	30.04.2023	47,891/-
48	Surekha Madhukar Vibhute	31.05.2024	48,377/-
49	Babasaheb Bhimrao Dhaygude	31.02.2020	51,679/-
50	Bhaskar Damu Talekar	31.05.2020	50,196/-
51	Satyawan Bapu Thorat	31.05.2024	2,22,271/-
52	Shalini Rangnath Korwale @ Shalini w/o. Nagesh Wardole	31.05.2024	48,377/-
53	Chandrakant Tulajaram Bhoi	31.05.2024	70,601/-
54	Balubai Dnyanoba Melge @ Balubai Nagnath Babar	31.05.2024	48,723/-
55	Dilipkumar Vithoba Mokashi	30.06.2024	46,044/-
56	Nirmala Bhagwat Patkulkar	31.07.2024	42,609/-
57	Nandkishor Kisan Bagwale	31.10.2022	1,22,415/-
58	Sanjay Vasant Tangwale	31.05.2024	57,405/-
59	Shaukat Mahamad Mulani	31.05.2024	2,85,286/-
60	Ramchandra Sadashiv Gavli	31.05.2019	23,743/-
61	Bebi Malharrao Shewale	31.03.2022	47,324/-
62	Arun Mahadev Waste	31.05.2017	13,073/-
63	Shashikant Manohar Pawar	31.05.2024	48,184/-
64	Nana Dhondiba Kharje	31.05.2018	24,771/-
65	Shivaji Nivrutti Patil	31.05.2018	24,794/-

66	Vitthal Ramanna Mhetre	31.05.2021	1,37,011/-
67	Dattatraya Jagannatha Masal	30.11.2023	60,965/-
68	Kamanna Mahadanna Aiwale	31.05.2022	46,654/-
69	Mohan Keru Bhosale	31.05.2020	94,183/-
70	Jubeda Rafik Pathan	18.04.2017	74,491/-
71	Swati wd/o. Nilesh Salave	16.12.2015	34,956/-
72	Shobha Raosaheb Navale @ Shobah Rajkumar Avatade	31.05.2021	43,201/-
73	Indumati Jaywant Talekar	31.05.2017	41,189/-
74	Bajrang Manik Kurde	30.06.2021	50,419/-
75	Shankar Sukhadev Talekar	31.05.2021	50,467/-
76	Ayodhya Sambhaji Talekar	31.05.2017	7,646/-
77	Mahadev Namdev Mundhe	31.01.2021	2,75,233/-
78	Bhimrao Bhanudas Pathade	31.07.2022	1,00,128/-
79	Prakash Pralhad Jagtap	31.05.2023	2,84,313/-
80	Dawalsab Nabisab Nadaf	31.05.2021	53,264/-
81	Taher Abdul Majid Shaikh	31.01.2022	52,398/-
82	Mehboob Nabisab Karajgi	31.05.2019	49,570/-
83	Faridabano Isak Attar	31.10.2022	46,844/-
84	Shrees hail Rachayya Swami	31.05.2024	1,93,177/-
85	Rajendra Vishwanath Guddar	31.05.2022	1,81,640/-
86	Kamala wd/o. Shankar Kamble	09.02.2021	1,74,456/-
87	Akbar Guddusaheb Bagwan	31.05.2024	1,20,147/-
88	Sharad Manikrao Nilagar	31.08.2022	5,56,641/-
89	Dharmaraj Laxman Birajdar	31.05.2024	3,93,353/-
90	Shivanand Dhondappa Koli	31.05.2023	46,141/-
91	Ramdas Nana Gode	31.10.2023	98,943/-
92	Basavannappa Kashinath Zunja	31.05.2024	51,053/-

93	Kasim Bandgi Saheb Jamadar	31.05.2020	35,475/-
94	Basavaraj Siddhningappa Dolle	31.05.2024	1,08,165/-
95	Jyoti wd/o. Kumar Shinde	21.05.2021	68,282/-
96	Siddheshwar Janardhan Nagtilak	30.04.2024	2,68,792/-
97	Maharudra Dattatray Swami	31.05.2022	16,997/-
98	Nirmala Vishwanath Kamble	30.09.2021	40,677/-
99	Vitthal Yashawant Yadav	29.03.2024	44,739/-

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 records. 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.)