IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2756 OF 2025

Shrihari Dadarao Gaikwad and Ors. …..Petitioners

Vs.

The State of Maharashtra and Ors. ….Respondents

Mr. Umesh Kurund for the Petitioner.

Ms. Priyanka B. Chavan, for the Solapur Z.P.

Mr. V. M. Mali, AGP for the State.

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

DATE : 27th 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.	Retired Teachers Name	Computer Recovery	Retired Date
1.	Shri Shrihari Dadarao Gaikwad	50727.00	31.5.2021
2.	Shri Dashrath Santaram Mali	26169.00	31.5.2019
3.	Shri Vishnu Ambarushi Shinde	171622.00	30.11.2021
4.	Shri Bhaurao Lahu More	52795.00	31.5.2023
5.	Shri Appasaheb Sandipan Pisal	50774.00	31.5.2022
6.	Shri Dattatraya Pandhari Apue	230592.00	31.5.2022
7.	Shri Bhau Bhimrao Masal	47020.00	31.5.2023
8.	Shri Balasaheb Ganpati Shinde	23129.00	31.5.2019
9.	Shri Anand Babu Survase	44368.00	30.9.2023
10.	Shri Prakash Balbhim Vaskar	50478.00	31.5.2021
11.	Damodhar Uddhav Jambale	45573.00	31.5.2021
12.	Shri Dashrath Haridas Aragade	22434.00	31.5.2018
13.	Babruvahan Uttreshwar Kashid	47442.00	31.5.2024
14.	Manohar Janardhan Vaskar	47891.00	31.7.2024
15.	Rajana Narhai Ghodake	61779.00	31.5.2020
16.	Bhaskar Pandhari kakade	49329.00	31.5.2022
17.	Babusha Sopan Thite	45404.00	31.5.2021
18.	Mohan Eaknath More	47708.00	31.5.2020
19.	Balu Shirang More	30949.00	31.5.2018

20.	Smt. Shanta Bapurav Barade	47708.00	31.5.2020
21.	Madhukar Ambrushi Ukirade	6942.00	31.5.2017
22.	Smt. Saunanda Limbraj Tale	49860.00	31.12.2020
23.	Ashok Uttreshwar Kondhare	49946.00	31.10.2024
24.	Smt. Shalan Panurang Mundhe	43399.00	31.8.2021
25.	Nanasaheb Sarjerao Karande	113880.00	28.2.2022
26.	Smt. Urmila Devarao Hange	60530.00	30.4.2022
27.	Dattatraya Baburav Jadhavar	59867.00	30.6.2024
28.	Smt. Shobha Shamrao Savant	23467.00	30.2.2019
29.	Bhausaheb Harichandar Ukirade	46033.00	30.11.2021
30.	Shriram Gopal Kavatale	52301.00	31.12.2023
31.	Ramling Chandev Jagadale	67774.00	30.8.2022
32.	Smt. Bebi Kashinath Mangalkar	43679.00	31.5.2021
33.	Smt. Kamal Kundlik Burgute	24323.00	31.5.2019
34.	Smt. Asha Vitthal Raut	5786.00	31.3.2017
35.	Dattatraya Dnyandev Doltode	46494.00	31.5.2024
36.	Shri Tukaram Ranba Umap	24764.00	31.5.2018
37.	Saroj Vitthal Shinde	42445.00	16.6.2024
38.	Shobha Rameshwar Lande	50842.00	26.3.2023
39.	Minakshri Babasaheb Kashid	43399.00	12.4.2021
40.	Satish Bhagavan Dahival	46044.00	9.2.2023
41.	Anita Tanaji Kashid	43679.00	30.6.2020
42.	Sikandar Mustfa Pathan	37175.00	10.1.2021

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.)**