

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

REVIEW APPLICATION NO.12 OF 2023

IN

ORIGINAL APPLICATION NO.198 OF 2023

1. The Commissioner,)
Women & Child Development Department,)
3, Church Road, Pune)
 2. Deputy Commissioner (Establishment),)
Women & Child Development Department,)
28, Queens Garden, Pune-1)
 3. The Accounts Officer,)
Commissionerate of Women & Child Development)
Pune 411 001)
- Versus
1. Shri Bhagwan Narayanrao Gite,)
Women & Child Development Department,)
3, Church Road, Pune)
 2. The State of Maharashtra,)
Through Chief Secretary, Mantralaya, Mumbai)
 3. Principal Secretary,)
Women & Child Development Department,)
Mantralaya, Mumbai)
-)..Applicants
(Ori.Respondents
No.3, 4 & 5)
-)..Respondents
(No.1-Ori.Applicant
Nos.2 & 3-Ori.
Resp.No.1 & 2)

Smt. Archana B.K. – Presenting Officer for the Applicants-original Respondents

Shri K.S. Jadhav – Advocate for the Respondent No.1-original Applicant

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 23rd January, 2024

PRONOUNCED ON: 2nd February, 2024

J U D G M E N T

1. This Review Application is filed by the State for reviewing the judgment and order dated 4.9.2023 passed by this Tribunal in OA No.198 of 2023 and to modify the order in view of letter dated 4.9.2023 regarding objection raised by the Pay Verification Unit.

2. Ld. PO for the applicants-original respondents submits that OA was filed challenging the orders dated 8.2.2023, 11.1.2023 and 12.4.2021 whereby all the benefits given under the Assured Career Progression Scheme (ACPS) to the applicant are to be taken back and there is recovery of Rs.3,23,232/-.

3. Ld. PO pointed out that the Tribunal has failed to consider the GR dated 2.3.2019 as the said GR is issued only for 3 benefits of ACPS after completion of 10, 20 & 30 years of regular service during 7th Pay Commission. Ld. PO further pointed out that this Tribunal has not considered the undertaking given by the original applicant stating that he was ready and willing to pay the recovery amount from his gratuity. Ld. PO states that this Tribunal has erred in holding that the original applicant belongs to Class III and the ratio laid down by the Hon'ble Supreme Court in the case of State of Punjab & Ors. Vs. Rafiq Masih

(White Washer) & Ors. Civil Appeal No.11527 of 2014 decided on 18.12.2014 is applicable because he has himself given an undertaking to recover the same amount from his gratuity. Ld. PO therefore prays that the order dated 4.9.2023 passed by this Tribunal be reviewed and modified.

4. Ld. Advocate for the respondent-original applicant states that as per Article 14 of the Constitution of India a decision taken by the Hon'ble Supreme Court is binding. He further pointed that applicant has taken voluntary retirement on 11.10.2023.

5. I have considered the submissions of both the sides. There is nothing in the present MA to justify review of the findings and conclusions arrived at in the judgment of the Tribunal dated 4.9.2023. Neither any new fact nor error apparent on the face of record is established. If the applicant is dissatisfied with the findings and conclusion of the Tribunal, he is free to adopt appropriate proceedings before the competent forum.

6. For the reasons mentioned above, the Review Application is rejected. No order as to costs.

Sd/-
(Medha Gadgil)
Member (A)
2.2.2024

Dictation taken by: S.G. Jawalkar.