

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6933 OF 2014

Satwa Dharmaji Shinde

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Vaibhav B. Dhage, Advocate for the Petitioner.

Shri K. M. Suryawanshi, A.G.P. for Respondent Nos. 1 and 4.

Shri V. D. Gunale, Advocate for Respondent Nos. 2 and 3.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 13TH JULY, 2015.

PER COURT :

. Mr. Dhage, the learned counsel for the petitioner submits that, the present petition is filed seeking payment of provident fund, amount deducted towards L.I.C. and the salary of three months. So also recovery of an amount of Rs. 1,17,468/- made by respondents on the ground that excess payment of salary was made from 1998.

2. Mr. Gunale, the learned counsel states that, the amount towards provident fund and amount deducted towards L.I.C. has been paid to the petitioner. As far as three months salary is concerned, the management has deposited the same with the

respondent/State vide challan as recovery was claimed by respondents/State on account of erroneously given higher pay scale to the petitioner. The amount of Rs. 1,16,868/- is deposited.

3. The learned Assistant Government Pleader submits that, on account of excess pay given to the petitioner from 15.07.1998 the order of recovery was passed on 25.07.2014. The same is rightly passed. No illegality has been committed.

4. It is not disputed by the authorities that, after filing of present writ petition, the management has paid the amount towards provident fund, so also deductions made towards the L.I.C. The only dispute remains for payment of Rs. 1,16,868/- which the management has deducted from the amount payable to the petitioner and deposited with the respondent/State vide the challan.

5. The said order of recovery is passed on 25.07.2014. The petitioner stood retired in January 2014. The Apex Court in a case of **State of Punjab Vs. Rafiq Masih (White Washer) etc.** reported in **A.S.C.W 2015(4) page 334** has clearly laid down that even erroneously if excess amount has been paid, then the same cannot be recovered from the employee who has retired or who is on the verge of retirement. Present case is squarely covered by the judgment of the Apex Court in a

case of **State of Punjab Vs. Rafiq Masih (White Washer) etc.** referred supra.

6. In the light of the above, the order claiming recovery against the petitioner is quashed and set aside. The respondent Nos. 1 and 4 shall refund an amount of Rs. 1,16,868/- to the petitioner which is deposited by the management from the amount payable to the petitioner expeditiously and preferably within a period of three (3) months from today. The writ petition accordingly is disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]

bsb/July 15