

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

WRIT PETITION NO. 10476 OF 2016

The State of Maharashtra
& others

.. PETITIONERS

VERSUS

Narendra Gulbsing Dixit

.. RESPONDENT

Mr. S.S. Dande, AGP for the petitioners.

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**CORAM : R.M. BORDE &
K.K. SONAWANE, JJ.
DATE : 24th OCTOBER, 2016.**

PER COURT :

1. The State is objecting to the order passed by the Maharashtra Administrative Tribunal allowing the original application tendered by the respondent. Respondent-employee is in class III cadre of the Motor Transport branch of the police department under the supervision of the Superintendent of Police, Motor Transport, Maharashtra State, Pune 7. It is the contention of the State that the employee has been paid in excess of his entitlement from the year 2011 under wrongful assumption that he has completed 12 years of continuous service. It is contended that the amount has been wrongfully paid in excess of his entitlement by mis-interpretation of the policy of the State Government formulated in that behalf. The Maharashtra Administrative Tribunal, placing reliance on the judgment of the Hon'ble Apex Court in Civil Appeal No. 11527/2014 in the matter of State of Punjab and others Vs Rafiq Masih (white Washer) etc. proceeded to direct quashment of the adverse order issued by the State Government.

2. It is not a matter of dispute that petitioner is an employee belonging to Class III cadre and that he is due to retire next year. According to us the tribunal has correctly drawn inference that the recovery if made from the employee would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover. The reasoned order passed by the tribunal need not be interfered with in exercise of extra ordinary jurisdiction under Article 226 of the Constitution of India. Petition is devoid of substance hence stands rejected.

(K. K. SONAWANE)
JUDGE

(R. M. BORDE)
JUDGE

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