

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2792 OF 2002

The Central Railway Protection Force Association
a registered Association, having its office
at RPF Barrack No.3, Mulund (East),
Mumbai 400 081

.. petitioner

Vs.

1. General Manager
Central Railway, having his
office at Chhatrapati Shivaji
Terminus, Mumbai.

2. The Chief Security Commissioner
(CSC), RPF, Central Railway,
having his office at Parcel
Building, Third Flor, Chhatrapati
Shivaji Terminus, Mumbai.

3. Senior Division Security Commissioner,
RPF, Central Railway,
having his office at DRM
Building, Third Flor, Chhatrapati
Shivaji Terminus, Mumbai.

4. Director General -RPF,
Railway Board,
New Delhi.

5. Director – Pay Commission,
Rail Bhavan, Railway Board,
New Delhi.

6. Union of India,
Ministry of Railways,
through its Legal Department
at Aayakar Bhavan, Churchgate,
Mumbai 400 021.

.. Respondents

Mr.Nitin P. Dalvi, for the petitioner .
Mr.Suresh Kumar, for Respondents.

**CORAM : A.A.SAYED &
M.S.KARNIK, JJ.**

**RESERVED ON : 04th AUGUST 2017
PRONOUNCED ON : 14th AUGUST 2017**

ORDER (PER M.S.KARNIK, J) :

. The petitioner viz. Central Railway Protection Force Association has filed the present Petition on behalf of constables of the Railway Protection Force posted in the Mumbai and Maharashtra Division. The grievance of the petitioner is that the basic pay of the constables is sought to be reduced by approximate Rs.140/- to Rs. 210/- per month due to faulty and incorrect implementation of the revised pay scale of Vth Pay Commission. In the submission of the learned Counsel for the petitioner reduction in the salary is not due to actual recommendations but due to misinterpretation of the pay scale recommendations. The said deductions resulted in substantial loss from each of these constable's pay. The petitioner contends that as a result of this illegality, the salary is reduced and the respondents would then proceed to recover the arrears on the basis of such wrong pay fixation.

2. Learned Counsel for the petitioner however submits that

now the only relief the petitioner seeks is for restraining the respondents from recovering excess payments made to the petitioner as a result of wrong pay fixation.

3. Learned Counsel for the petitioner relied upon the decision of the Apex Court in the case of **State of Punjab & ors. Vs. Rafiq Masih (White Washer) etc. 2015(4) Supreme Court Cases 334** to contend that the excess amount paid to the petitioner was not because of misrepresentation or fraud on their part and the petitioner has no knowledge that the amount paid to them was more than what they were entitled to. The excess payment made was as a result of wrong pay fixation. Though according to the petitioner the pay fixation itself is illegal, as indicated earlier, they are not pressing their claim in respect of wrong pay fixation but are restricting their claim to the recovery that may ultimately be made regards the excess payment.

4. Learned Counsel for the respondents opposed the Petition and submitted that the RPF of constables have benefited as a result of wrong pay fixation and therefore were not entitled to the excess payment made. Learned Counsel submits that they would be

justified in effecting recovery of excess payment as the members of the petitioner association were not entitled to the same.

5. There is no dispute that the excess amount that has been paid to the members of the petitioner association was not because of any misrepresentation or fraud on their part and the members also had no knowledge that the amount that was paid to them was more than what they were entitled to. Even the stand of the respondents is that the members of the petitioner association were paid excess amount on the basis of wrong pay fixation and therefore amounts are being recovered. According to us, the controversy is squarely covered by the decision of the Apex Court in the case of **State of Punjab & ors.** (*supra*). This Court had vide interim order dated 27/01/2003 granted interim relief against past recovery. In this view of the matter, the present Petition deserves to be partly allowed restraining the respondents from effecting past recovery in respect of the petitioner and the members of the petitioner viz. RPF constables situated in Mumbai. Rule is partly made absolute in the above terms. No order as to costs.

(M.S.KARNIK, J.)

(A.A.SAYED, J.)