

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 13269 OF 2018

The Regional Dairy Development Officer

Aurangabad and others

..

Petitioners

Versus

Jalindar Gorakhnath Ubale

..

Respondent

Smt. M. A. Deshpande, Addl.G.P. for Petitioners.

CORAM : S. V. GANGAPURWALA AND

R. G. AVACHAT, JJ.

DATED : 03rd December, 2018

PER COURT:

. The present respondent had filed original application before the Maharashtra Administrative Tribunal, Aurangabad, thereby assailing the action of the present petitioner claiming recovery after his retirement. The tribunal allowed the original application to the extent of recovery. Aggrieved thereby the present petition.

2. Mrs. Deshpande, the learned Addl. G.P. submits that the tribunal

has relied only upon the judgment of the Apex Court in a case of **The State of Punjab Vs. Rafiq Masih (White Washer)**, reported in **AIR 2015 Supreme Court Cases 696** to grant relief to the respondent. However, the subsequent judgment of the Apex Court in a case of **High Court Punjab and Haryana Vs. Jagdevsing** reported in **SCC dated 29th July, 2016** has been ignored. The Addl. G.P. further submits that it is not a blanket rule that recovery can not be claimed. Because of the wrong pay fixation the excess salary was paid to the respondent to the tune of Rs. 4,98,952/- The same is required to be recovered.

3. We have considered the submissions and also have gone through the judgment.

4. The respondent admittedly was a Class III employee. After retirement of the respondent recovery is claimed. The recovery would tantamount to hardship. In a case of **High Court Punjab and Haryana Vs. Jagdevsing** (supra) the employee was a Class I employee being a judicial officer first class. In that context the Apex Court has directed the recovery to be made.

5. In the present case the respondent is a Class III employee. After the retirement the recovery is claimed. The same would tantamount to the hardship. The parameters laid down by the Apex Court in a case of **The State of Punjab Vs. Rafiq Masih (White Washer)** (supra) are applicable in the present case.

6. The tribunal has considered the said aspect judiciously.

7. In light of that no case is made out for interference. Writ petition is disposed of. No costs.

[R. G. AVACHAT, J.]

[S. V. GANGAPURWALA, J.]

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