

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2254 OF 2018

The Government of Maharashtra and ors.	...Petitioners
Versus	
Shri. Vilas N. Patil	...Respondent

Mr. N.C. Walimbe, AGP for the State / Petitioner.
None for the Respondent.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE : 03.07.2018.

PC:

- 1] Heard Mr. N.C. Walimbe, learned AGP for the State.
- 2] The challenge in this petition is to the judgment and order dated 24.07.2015 made by the Maharashtra Administrative Tribunal (MAT), Mumbai allowing O.A. No. 1088 of 2014 instituted by the respondent.
- 3] Mr. Walimbe, learned AGP for the State, submits that the Accountant General Office , whilst scrutinizing the pension papers of the respondent raised an objection that the respondent was wrongly granted benefit of Time Bound

Promotion Scheme (TBPS) w.e.f. 1.12.1994 when in fact, such benefit, could have been granted to the respondent only from 21.12.1998. Upon verification, this objection was found to be right and therefore, the petitioners/ State quite correctly recovered the excess payment of Rs.85,545/- from out of retiral benefits due and payable to the respondents. He submits that since these aspects have not been appreciated by the MAT, the impugned judgment and order warrants interference.

4] We have considered the contentions raised by Mr.Walimbe in the context of record as well as the reasoning of the MAT. We are unable to agree that there is any serious jurisdictional error or any other legal infirmity in the view taken by the MAT, which warrants interference in the exercise of our external jurisdiction under Article 226/227 of the Constitution of India.

5] The record indicates that benefit of TBPS scheme was granted to the respondent way back in the year 1994. At the stage when, the respondent was on the verge of retirement, based upon the tentative objections raised by

AGP, some time in the year 2013, it was really not open to the petitioners to conclude that there was some mistake and as a consequence, the respondent had received additional benefit of Rs.85,545/-. Secondly, the MAT has taken note of cases of other employees placed in identical positions, where, no such correction, so to say, was sought to be effected. Thirdly, the MAT has quite correctly, relied upon the ruling of the Hon'ble Supreme Court in ***State of Punjab and ors. vs. Rafiq Masih (White Washer) and ors. - (2015) 4 SCC 334*** , to hold that it would be extremely iniquitous to permit any recoveries at the stage, where the respondent had already retired from the service or was on the verge of retirement from service. The petitioners have not only violated the principles of natural justice and fair play, but also, their action is contrary to the principles laid down by the Hon'ble Supreme Court in the case of *Rafiq Masih (supra)*.

6] For all the aforesaid reasons, we see no good ground to interfere with the impugned judgment and order. This petition is dismissed. There shall be no order as to costs.

7] We, however, grant further period of six weeks to the petitioners to comply with the directions issued by the MAT, so that, if there is compliance within six weeks from today, the petitioners/ State, need not to pay any interest on the refund of the recovered amount.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

Dinesh
Sadanand
Sherla

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by Dinesh
Sadanand Sherla
Date: 2018.07.06
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