

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

WRIT PETITION NO. 8255 OF 2018

Smt. Pushpabai Kaduba Raut

... Petitioner

Versus

The State of Maharashtra & Ors.

... Respondents

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Mr Hanumant Jadhav, Advocawte for the petitioner
Mrs A. V. Gondhalekar, AGP for respondent/State
Mr U. B. Bondar, Advocate for respondents No. 2 to 4
Respondent No. 5 served

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 21ST JANUARY, 2019

ORAL ORDER:

1. The petitioner challenges the letter seeking recovery of Rs. 1,00,232/- and also seeks directions to decide the representation as regards compassionate appointment of son of the petitioner.

2. Mr Jadhav, the learned counsel for the petitioner submits that, the recovery of Rs. 1,00,232/- is claimed from the retiral benefits of the deceased-husband of the petitioner on the ground that, certificate regarding passing of computer examination was submitted late. The learned counsel submits that, the same is

claimed after death of the deceased-husband of the petitioner from the retiral benefits under the Family Pension. The same would cause hardship. The pay fixation is not properly done. The application of the petitioner for substituting the name of the son of the petitioner in place of the petitioner is also not considered by the respondents.

3. Mr Bondar, learned counsel for respondents No. 2 to 4 submits that, upon non-submission of the certificate of having passed the computer examination within one year, the benefit that was given has to be recalled. In view of that, the excess payment was made to the deceased-husband of the petitioner to the tune of Rs. 1,00,232/-, the same is rightly recovered.

4. It is not disputed that the husband of the petitioner died while in service and after his death, the recovery is claimed. The same would amount to hardship. The deceased was working as Class-III employee. The parameters as laid down by the Hon'ble Apex Court in the case of State of Punjab vs. Rafique Masih (WhiteWasher) etc. reported in AIR 2015 SC 696 would apply.

5. In view of that, the recovery to the extent of Rs. 1,00,232/- claimed by the respondents on account of non-submission of the certificate of having passed computer examination is set aside.

6. The respondents may on its own merits decide the application of the petitioner for substituting the name of son of the petitioner in her place. In regard to the pay fixation, if the petitioner has any grievance, the petitioner may approach the respondents. The respondents may consider the grievance of the petitioner with regard to the pay fixation of the petitioner on its own merits. It is submitted that, Rs. 1,00,232/- is already recovered. The same shall be refunded to the petitioner within three months from today.

7. The writ petition is accordingly disposed of. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde