

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

WRIT PETITION NO.11190 OF 2019

Shaikh Humayun Shaikh Nayyar .. Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr. .. Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr Maheshkumar S. Sonawane, Advocate for respondent no.1

WRIT PETITION NO.340 OF 2018

Dattatray Shankar Bhusande ..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr. ..Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WITH

WRIT PETITION NO.341 OF 2018

Laxman Dattatray Wani ..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr. ..Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WRIT

WRIT PETITION NO.342 OF 2018

Dhanraj Natthu Chavan ..petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr. ..Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WRIT

WRIT PETITION NO.343 OF 2018

Prakash Navalsingh Baviskar ..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr. ..Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WITH

WRIT PETITION NO.344 OF 2018

Ravindra Sitaram Mahajan ..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr. ..Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WITH

WRIT PETITION NO.345 OF 2018

Pandharinath Bhika Patil ..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr. ..Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WITH

WRIT PETITION NO.346 OF 2018

Usha Ranjitsing Rathod ..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr. ..Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WITH

WRIT PETITION NO.347 OF 2018

Baburao Kisan Darkonde

..Petitioner

Versus

The Zilla Parishad, Jalgaon

through its Chief Executive Officer and anr.

..Respondents

Mr Vijay B. Patil, Advocate for petitioner

Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WITH

WRIT PETITION NO.348 OF 2018

Namdeo Dhondu Patil

..Petitioner

Versus

The Zilla Parishad, Jalgaon

through its Chief Executive Officer and anr.

..Respondents

Mr Vijay B. Patil, Advocate for petitioner

Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WITH

WRIT PETITION NO.349 OF 2018

Ashok Kruparam Chinchole

..Petitioner

Versus

The Zilla Parishad, Jalgaon

through its Chief Executive Officer and anr.

..Respondents

Mr Vijay B. Patil, Advocate for petitioner

Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WITH

WRIT PETITION NO.350 OF 2018

Nimba Sonu Teli

..Petitioner

Versus

The Zilla Parishad, Jalgaon

through its Chief Executive Officer and anr.

..Respondents

Mr Vijay B. Patil, Advocate for petitioner

Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WITH

WRIT PETITION NO.351 OF 2018

Harchand Balchand Marathe ..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr. ..Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WITH

WRIT PETITION NO.352 OF 2018

Shantaram Dayaram Khodke ..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr. ..Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

WITH

WRIT PETITION NO.353 OF 2018

Ramabai Baburao Dhole ..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr. ..Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr Maheshkumar S. Sonawane, Advocate for respondent no.1 and 2

AND

WRIT PETITION NO.2020 OF 2018

Sushila Ashok Deshmukh ..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr. .. Respondents

Mr Vijay B. Patil, Advocate for petitioner

Mr S.B. Munde, Advocate for respondent no.1

WITH

WRIT PETITION NO.2025 OF 2018

Kashinath Rama Shimpi

..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and anr.

.. Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr S.B. Munde, Advocate for respondent no.1

WITH

WRIT PETITION NO.2026 OF 2018

Mansing Padamsing Rajput

..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and ors.

.. Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr S.B. Munde, Advocate for respondent no.1

AND

WRIT PETITION NO.8538 OF 2018

Satish Laxman Todkar

..Petitioner

Versus

The Zilla Parishad, Jalgaon
through its Chief Executive Officer and ors.

.. Respondents

Mr Vijay B. Patil, Advocate for petitioner
Mr S.B. Munde, Advocate for respondent no.1

**CORAM : S.V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 11.09.2019

ORAL ORDER :

1. The petitioners are challenging the recovery made by the respondents from the retiral benefits.

2. Mr Patil, learned Counsel for the petitioners relies on the judgment of Apex Court in the case of **State of Punjab Vs. Rafiq Masih (White washer)**, reported in **2015 (4) SCC 334**. Learned Counsel submits that after retirement, recovery is made by the respondents from the retiral benefits on the ground that pay fixation was wrongly done. It is not disputed that the petitioners are retired as Class-III employees.

3. Learned Counsel for respondent-Zilla Parishad submits that the petitioners cannot take advantage of erroneous pay fixation. If the directions are given to refund the amount to the petitioners, then the petitioners would be unjustly enriched. The respondents have authority to recover the amount paid by mistake.

4. Pay fixation was done in the year 2013. The case of the petitioners is covered by the judgment of Apex Court of **State of Punjab Vs. Rafiq Masih (White washer) (supra)**, wherein the Apex Court laid down the following parameters.

(I) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employees, 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.

5. All the parameters laid down in the judgment of **State of Punjab Vs. Rafiq Masih (supra)** are fulfilled. In light of the above, orders to the extent of recovery are quashed and set aside. The respondents shall return the amount recovered from the petitioners within a period of four months from today.

6. Writ Petitions are disposed of accordingly. No costs.

(**ANIL S. KILOR, J.**)

(**S.V. GANGAPURWALA, J.**)

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