IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

947 WRIT PETITION NO.10752 OF 2019

ALISHERKHAN ASHRAFKHAN PATHAN ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

WITH
WRIT PETITION NO.10753 OF 2019
WITH
WRIT PETITION NO.10754 OF 2019
WITH
WRIT PETITION NO.10755 OF 2019
WITH
WRIT PETITION NO.10756 OF 2019
WITH
WRIT PETITION NO.10757 OF 2019
WITH
WRIT PETITION NO.10758 OF 2019
WITH
WRIT PETITION NO.10759 OF 2019
WITH
WRIT PETITION NO.10760 OF 2019
WITH
WRIT PETITION NO.10761 OF 2019
WITH
WRIT PETITION NO.10762 OF 2019
WITH
WRIT PETITION NO.10763 OF 2019
WITH
WRIT PETITION NO.10764 OF 2019
WITH
WRIT PETITION NO.10765 OF 2019
WITH
WRIT PETITION NO.10766 OF 2019
WITH
WRIT PETITION NO.10767 OF 2019
WITH
WRIT PETITION NO.10768 OF 2019

WITH
WRIT PETITION NO.10769 OF 2019
WITH
WRIT PETITION NO.10770 OF 2019
WITH
WRIT PETITION NO.10771 OF 2019
WITH
WRIT PETITION NO.10772 OF 2019
WITH
WRIT PETITION NO.10773 OF 2019
WITH
WRIT PETITION NO.10774 OF 2019

…

Mr. P. H. Patil h/f Mr. Prakashsing B. Patil, Advocates for the Petitioners in all WP.
Mr. S. G. Karlekar, AGP for Respondents-State.

…

CORAM : S. V. GANGAPURWALA &
ANIL S. KILOR, JJ.

DATED : 29th AUGUST, 2019.

PER COURT:-

1. Issue notice for respondents. The learned A.G.P. accepts notice for all respondents.

2. The petitioners seek refund of the amount recovered from petitioners from gratuity on account of wrong pay fixation / excess payment made.

3. We have heard learned counsel for petitioners and learned A.G.P.

4. The learned counsel for petitioners refers to the order passed by the Division Bench of this Court dated 19.03.2019 in Writ Petition Nos.2344/2019 and 2345/2019 and submits that

petitioners in the present writ petitions are similarly situated as petitioners in Writ Petition Nos.2344/2019 and 2345/2019 decided on 19.03.2019. The department is same. In Writ Petition Nos.2344/2019 and 2345/2019 the recovery was made from the gratuity. In the present case also the recovery is made from the gratuity.

5. The learned A.G.P. on going through the judgment dated 19.03.2019 in Writ Petition Nos.2344/2019 and 2345/2019 accedes to the fact that the present petitioners are similarly situated as petitioners in Writ Petition Nos.2344/2019 and 2345/2019.

6. In the said judgment, the Division Bench of this Court allowed writ petitions and directed refund of the amount alongwith the interest at the rate of 10% per annum. The Division Bench of this Court in the said writ petitions passed the following order:

> "In that view of the matter, all these writ petitions stands allowed. The excess amount, which is deducted from the amount of retirement dues payable to the petitioners in the form of gratuity, be refunded to the respective petitioners along with interest @ 10% p.a. from the date the amount was recovered. The said refund be made within a period of six months from today."

7. In the light of above, the present writ petitions are also disposed of in terms of the

order passed in Writ Petition Nos.2344/2019 and 2345/2019 dated 19.03.2019.

8. The respondents shall refund the excess amount deducted from the amount of gratuity alongwith interest at the rate of 10% per annum from the date the amount was recovered. The payment shall be made within a period of six (06) months.

9. Writ Petitions are disposed of. No costs.

(ANIL S. KILOR)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/August-19