

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

72 WRIT PETITION NO.12790 OF 2018

DILIP JAYRAM SURYAWANSHI
VERSUS
MUNICIPAL CORPORATION THROUGH THE MUNICIPAL
COMMISSIONER

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Mr. V.B. Suryawanshi, Advocate for the petitioner.
Mr. V.D. Gunale, Advocate for the respondent.

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CORAM : S.V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.

DATE : 3 December 2019.

ORDER :-

. Learned Counsel for the petitioner submits that initially on 28.05.2007 an order was passed by the respondent directing recovery from the petitioner on the ground of wrong pay fixation. The petitioner challenged the said order before the Industrial Court. The Industrial Court allowed complaint filed by the petitioner bearing Complaint (ULP) No. 1/2007 under order dated 18.02.2013. Respondent challenged the order of Industrial Court before this Court by filing Writ Petition No.2763 of 2016. The writ petition filed by the respondent is dismissed. Thereafter again on 03.09.2018 same order is passed by the respondent directing recovery of

amount from the petitioner. Learned Counsel submits that the petitioner is a retired person and at the time of retirement he was working on Class-IV post.

2. We have heard Mr. Gunale, learned Counsel for the respondent.

3. Once the order has been passed by the Industrial Court and confirmed by this Court, it was not open for the respondent to again pass the same order that was set aside by this Court. The respondent's act of passing the order dated 03.09.2018 directing recovery from the petitioner would be sitting over the order passed by this Court. The same is not permissible. In light of that, the impugned order is set aside. The respondent shall refund the amount recovered from the petitioner within the period of three months.

4. Writ Petition accordingly allowed. No costs.

(AVINASH G. GHAROTE, J.)

(S.V. GANGAPURWALA, J.)