

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

WRIT PETITION NO. 12853 OF 2018

Shri. Suresh Pandharinath Patil

... Petitioner

Versus

The State of Maharashtra & Ors.

.... Respondents

.....

Mr Yogesh B. Bokar, Advocate for the petitioner
Mrs A. V. Gondhalekar, AGP for respondents No. 1 and 2
Mr N. D. Patil, Advocate for respondents No. 3 to 6

.....

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

DATE : 21ST JANUARY, 2019

ORAL ORDER:

1. The petitioners assail the notices issued to them seeking recovery of the amount.
2. Mr Yogesh B. Bolkar, the learned counsel for the petitioners submits that, the additional increments were given to the petitioners on account of rendering outstanding/excellent services in the year 2008 with effect from 01.10.2006. The same is sought to be recovered under the impugned communications. The learned counsel submits that, the same is not permissible.

3. The learned advocate for respondents No. 3 and 4 submits that the additional increments were wrongly paid to the petitioners. The petitioners were not entitled for the additional increment in view of the Government Resolution dt. 24.08.2017 and the Circular dt. 03.07.2009. However, as the same has been wrongly paid, the recovery is made.

4. The petitioner is working as Class-III employee. The recovery is claimed prior to five years. It is not on account of any misrepresentation on the part of the petitioners that the additional increments were granted. It was granted as per the scheme in vogue at the relevant time. The parameters laid down in the case of *State of Punjab vs. Rafique Masih (WhiteWasher) etc.* reported in *AIR 2015 SC 696* would squarely apply.

5. In the light of the above, the impugned communications to the extent of claiming recovery from the petitioners on account of payment of additional increments for outstanding/excellent work are quashed and set aside.

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

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE