

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 WRIT PETITION NO.14924 OF 2019

SANGITA VIJAYKUMAR KOLI

VERSUS

THE CHIEF EXECUTIVE OFFICER AND OTHERS

948 WRIT PETITION NO.14935 OF 2019

NALINI BHIKA BORASE CHAUDHARI

VERSUS

THE CHIEF EXECUTIVE OFFICER AND OTHERS

958 WRIT PETITION NO.14946 OF 2019

JAYESH BHAGWAT SHIRSATH PATIL

VERSUS

THE CHIEF EXECUTIVE OFFICER AND OTHERS

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Advocate for Petitioners : Mr. Bolkar Yogesh B
Advocate for Respondent Nos.1 to 4 : Mr. Mahesh Kumar S.
Sonawane.

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

DATE : 11.12.2019

PER COURT :-

1. Mr. Bolkar, learned counsel for the petitioners submits that the recovery effected from the monetary benefits payable to the petitioners vide impugned orders dated 03.04.2018 and 02.11.2018 is recalled and recovery is claimed under the impugned order dated 03.04.2018 and 02.11.2018. The learned counsel relies on the judgment of the Apex Court in a case of *State of Punjab and Others Vs. Rafiq Masih (White Washer) and Others reported in 2015 (4)*

Supreme Court Cases 334.

2. The learned counsel submits that the petitioners are dead and are represented by Legal Heirs. The recovery also cannot be claimed for a period prior to five year. No misrepresentation was made by the deceased petitioners at any material point of time.

3. Mr. M.S. Sonawane, learned counsel for respondents submits that the petitioners were supposed to complete MS-CIT within a stipulated period. The said period was also finally extended upto 31.12.2007. However, the petitioners did not complete the same. In view of that increments granted from 1.1.2008 to 31.07.2015 have been rightly recalled. The deceased-petitioners are liable for the same.

4. The case of the deceased-petitioners does not come within the ambit and purview of wrong pay fixation. The increments were granted to the deceased-petitioners on the ground that the deceased-petitioners shall complete MS-CIT within the stipulated period. The deceased-petitioners failed to complete the same. In view of that, the respondents were within their powers to withdraw the benefit given to the petitioners.

5. However, it would appear that the employees are dead and are now represented by the L.Rs. It is only on the ground that

deceased employees are dead and it would be inequitable to recover the amount from the L.Rs., we have entertained the petitions.

6. Considering the facts that hardship would be caused, if the recovery is made from the L.Rs of the deceased employees. The L.Rs. are the widows doing household work and son is taking education. Only on the ground of equity and facts and circumstances of these cases, we have entertained the petitions.

7. In the result, the impugned order to the extent of recovery only is quashed and set aside. The amount of recovery as claimed under the impugned order shall not be withheld. However, pay fixation will be done considering the order that the deceased employees had not completed MS-CIT within a stipulated period.

8. In case, the recovery is already made by the respondent, the same shall be repaid / refunded to the petitioners preferably within a period of three (3) months.

9. The Writ Petitions are disposed off.

(AVINASH G. GHAROTE, J.)

(S.V. GANGAPURWALA, J.)

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vmk/-