

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

950 WRIT PETITION NO. 3339 OF 2020

**SONALI JITENDRA DESHMUKH
VERSUS
THE CHIEF EXECUTIVE OFFICER ZILLA PARISHAD JALGAON
AND OTHERS**

...
Advocate for Petitioner : Mr. Bolkar Yogesh B.
Advocate for Respondents : Mr. M. S. Sonawane
...

**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 27th FEBRUARY, 2020

PER COURT:

1. Learned counsel for the petitioner submits that recovery has been claimed by the respondents from the retiral benefits of the husband of the petitioner on the ground of wrong pay fixation. According to the learned counsel, the husband of the petitioner, at the time of retirement was working as Class III employee. Learned counsel refers to the judgment of the Apex Court in the case of *State of Punjab Vs. Rafiq Masih (White Washer)*, reported in *2015 (4) SCC 334*.

2. Mr. Sonawane, learned counsel appearing for the respondents submits that the petitioner would be refunded the amount recovered after 2018 but the petitioner is not entitled for refund of the amount which is already recovered prior.

3. It is not disputed that the husband of the petitioner, as on the date of retirement, was working as Class III employee. Recovery is claimed in respect of the payment made to the petitioner on the basis of wrong pay fixation from the year 2008 onwards. It would not be equitable to recover the said amount from the retiral benefits. It is not the case of the respondents that the petitioner had misrepresented and on the basis of misrepresentation, wrong pay was fixed. The parameters as laid down in the judgment of the Apex Court in the case of State of Punjab Vs. Rafiq Masih (White Washer), are attracted in the present case.

4. In the light of that, the respondents may refund the amount recovered from the retiral

benefits of the husband of the petitioner on the basis of wrong pay fixation. The same be refunded within six months.

5. Writ Petition is accordingly disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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