

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
22 WRIT PETITION NO.9818 OF 2019**

BABAN DEORAO DOLZAKE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

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Mr. Swapnil A. Deshmukh, Advocate for the
Petitioner.

Mr. S. P. Tiwari, AGP for Respondents-State.

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**CORAM : S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATED : 08th JANUARY, 2020.

PER COURT:-

1. The enquiry was initiated against the petitioner. The Enquiry Officer found the petitioner guilty. The appointing authority imposed punishment upon the petitioner, thereby claiming recovery of Rs.3,95,000/-. The petitioner filed an Appeal. The Appeal is dismissed. Thereafter, petitioner filed Original Application before the Maharashtra Administrative Tribunal. The Maharashtra Administrative Tribunal dismissed the Original Application. Aggrieved thereby, the present writ petition.

2. The learned counsel for the petitioner strenuously contends that the amount is claimed from the retiral benefits of the petitioner and after the petitioner has retired from the service. The petitioner was Class-III employee. The recovery after retirement is not permissible. The

learned counsel relies on the judgment of the Apex Court in a case of **State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.** reported in (2015) 4 SCC 334.

3. According to the learned counsel the petitioner alongwith Gramsevak and Agriculture Officer had made survey. The punishment is imposed upon the petitioner only and no action is taken against the other officers. The respondents have acted in arbitrary manner. The discrimination has been done. According to the learned counsel the amount is deposited in the accounts of the agriculturist. The petitioner is not beneficiary of any amount. The Chief Officer held that the charges are only partly proved. The same is also based on erroneous evidence.

4. We have also heard learned A.G.P.

5. It appears that, the petitioner was entrusted the work of visiting the lands of farmers who were affected due to hailstorm and preparation of panchanama. The petitioner was in-charge of village Sarafgavan and Shevgal. He prepared panchanama in the presence of Village Officer and Agriculture Officer. The petitioner prepared the list of beneficiaries. On the basis of his report, the compensation has been granted to the beneficiaries. The complaint was filed by one of the villager with regard to the irregularities in

disbursement of compensation to the farmers affected due to hailstorm. Enquiry was directed. Enquiry was conducted and the report was submitted by the Circle Inspector about the illegalities committed by the present petitioner. The petitioner had included names of farmers in the list of beneficiaries though they had not planted fruit bearing trees in their lands and were not eligible for compensation. The petitioner had not included the names of some of the farmers in the list of beneficiaries though their fruit bearing trees were affected. Departmental Enquiry was initiated against the petitioner. The petitioner was granted opportunity of hearing. The Enquiry Officer on conclusion of the Departmental Enquiry submitted report. The respondent no.4 considered the report and punishment was imposed upon the petitioner.

6. This Court would not sit in Appeal over the decision of the disciplinary authority confirmed in Appeal and by the Tribunal. However, would consider adherence to due process in conduct of departmental enquiry and observance of the principles of natural justice. All the authorities and the Tribunal had concurrently come to the conclusion about the involvement of the petitioner.

7. The judgment of the Apex Court in the case of **State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.** (supra) would be of no avail.

Recovery is not claimed on the basis of wrong pay fixation, but the illegalities committed by the petitioner in submitting the illegal report and extending benefits to persons who were not entitled to. The same is by way of punishment. The Tribunal has not committed any error while passing impugned order.

8. Writ Petition as such is dismissed. No costs.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE