

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

WRIT PETITION NO. 9820 OF 2019

Shakawat Shankar Tadvi

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri C. V. Dharurkar, Advocate h/f Shri Gajanan K. Kshirsagar,
Advocate for the Petitioner.

Shri P. S. Patil, Addl.G.P. for Respondent Nos. 1 and 2.

Mrs. A. S. Hoge Patil, Advocate for Respondent Nos. 3 to 5.

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

DATE : 04TH MARCH 2020.

FINAL ORDER :

. The petitioner is seeking directions to pay the monthly pension and also challenging the recovery.

2. Mr. Dharurkar, the learned advocate for the petitioner submits that, the petitioner was granted exemption from passing MSCIT in the year 2010 on attaining 50 years of age. The respondent Nos. 3 to 5 held that the petitioner is not entitled for increments from the year 2008 to 2012. According to the learned counsel State Government under letter dated 20th November, 2018 also stayed the recovery claimed from the employees on account of not passing MSCIT.

3. Mrs. Hoge Patil, the learned advocate for the respondent Nos. 3 to 5 submits that, as the petitioner had not cleared MSCIT within stipulated period, the petitioner was not entitled for increments. The petitioner has been granted increment, which the petitioner was not entitled to. In view of that, the respondent Nos. 3 to 5 are entitled to recover the same. No error has been committed by the respondent Nos. 3 to 5.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. The letter dated 20th November, 2018 (page 57) clarifies that recovery on account of employee not passing MSCIT is stayed. Moreover, the petitioner is granted exemption from passing MSCIT examination in the year 2010. Entry to that effect is also recorded in the service book of the petitioner. The question is of increments of two years.

6. The petitioner has already retired from service. The pensionary benefits are not released on the ground of recovery. Hardship would be caused to the petitioner, if the same is claimed from the retiral benefits.

7. In the light of the above, the impugned order claiming recovery is quashed and set aside. The respondent Nos. 3 to 5 shall release the pension and pensionary benefits to the petitioner expeditiously.

8. The writ petition accordingly is allowed in above terms. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

bsb/March 20