

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

WRIT PETITION NO.10942 OF 2019

Satish Vasantryao Mhaske

.. Petitioner

Versus

The State of Maharashtra and ors.

.. Respondents

Mr R.R. Karpe, Advocate for petitioner

Mr S.G. Karlekar, A.G.P. for respondents no.1 and 2

Mr V.V. Gujar, Advocate for respondent no.3 to 5

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

DATE : 28th February 2020

ORAL ORDER :

1. The petitioner assails the order claiming recovery from the petitioner on the ground that the petitioner did not pass MS-CIT within the stipulated period.
2. Mr Karpe, learned Counsel for the petitioner strenuously contends that the petitioner was appointed as a Health Assistant under the appointment order dated 26.4.2006. The learned Counsel submits that the petitioner completed MS-CIT and was issued with the certificate in the year 2014. The petitioner was granted the regular increment every year. Under the impugned order, the recovery is claimed on the ground that the petitioner did not complete MS-CIT within the stipulated period.
3. Reference is made to the Government Resolution dated 20.7.2002. The learned Counsel for petitioner submits that no fraud was played by the petitioner nor there was misrepresentation on the part of the petitioner in claiming increments. The respondents on being satisfied with the work discharged by the petitioner granted regular increments. In such a scenario,

recovery cannot be claimed. The learned Counsel for the petitioner relies on the judgment of Supreme Court in case of **State of Punjab Vs. Rafiq Masih (White Washer) and ors.**, reported in **(2015) 4 SCC 334**. The learned Counsel submits that the petitioner is a Class – III employee. Hardship would be caused to the petitioner, if recovery is made.

4. The learned Counsel for respondents no.3 to 5 submits that the appointment order issued to the petitioner contains the clause that petitioner should complete MS-CIT within two years. The petitioner failed to complete MS-CIT within two years and completed MS-CIT only in the year 2014. According to learned Counsel, the Division Bench of this Court in Writ Petition No.8232 of 2013 under judgment and order dated 19.3.2018 has considered the said issue and had dismissed the writ petition filed by the employee challenging the recovery.

5. We have considered the submissions. The facts are not disputed. The petitioner was appointed on 26.4.2006 as a Health Assistant in a pay-scale. Clause 11 of the appointment order categorically requires the petitioner to complete MS-CIT within two years.

6. Reading the appointment order and the Government Resolution, it is manifest that the petitioner was required to complete MS-CIT within two years. The petitioner is in service. The recovery is made @ Rs.2,000/- per month from the salary of the petitioner. The recovery is already made for two years and more. Half of the amount is already recovered by the respondents. In the present case, it would not be a case of hardship. From the salary, Rs.2,000/- per month is being recovered. It may not cause much hardship to the petitioner. Admittedly, the petitioner was not entitled for the increment as per the Government Resolution dated 20.7.2002. The

petitioner has 16 to 18 years of service left. This Court in Writ Petition No.8232 of 2013 under judgment dated 19/3/2018 has already considered issue and dismissed the petition filed by the employee.

7. In light of the above, the petitioner is not entitled for any relief. Writ Petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

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