

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

WRIT PETITION NO. 13550 OF 2019

Ramesh Narayan Chandanse

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. V. D. Sapkal, Senior Advocate i/by Mr. Suvidh S. Kulkarni, Advocate for the Petitioner.

Mr. S. G. Karlekar, AGP for Respondent Nos. 1 and 2.

Mr. Uttam B. Bondar, Advocate for Respondent Nos. 3 to 5.

**CORAM : S. V. GANGAPURWALA &
 R. N. LADDHA, JJ.**

DATED : 11th October, 2021.

PER COURT:-

. Heard Mr. Sapkal, learned senior counsel for the petitioner and Mr. Bondar, learned counsel for respondent Nos. 3 to 5.

2. While issuing notice on 07.11.2019 the learned counsel for the petitioner on instructions categorically made a statement that the petitioner is not challenging the repay fixation done and the petitioner is restricting his challenge only to the extent of recovery.

3. Affidavit has been filed by the respondent Nos. 3 and 4 through Executive Engineer, Zilla Parishad. The relevant part of the affidavit reads thus :

“Though the refixation is considered, it is found that, the petitioner was paid Rs. 12,01,030/- as excess amount after his refixation, however considering the judgment of the Hon’ble High Court and the Hon’ble Apex Court as well as Government policy, as the petitioner was already been retired, no recovery proceedings were initiated. It has also considered that, the petitioner was considered for time bound promotion after 12 years i.e. from 01.04.2003 as contended by the petitioner. By calculating the same and considering his time bound promotional pay-scale from 01.04.2003, though he was excessively paid an amount of Rs. 12,01,030/-, the said amount has not been recovered.”

4. In view of the above, it is clear that the respondents have not resorted to claim recovery of the amount paid excess to the petitioner on account of wrong pay fixation as the petitioner is retired as class III employee. The respondents considering the various judgments of this Court and the Apex Court have not claimed recovery from the petitioner. In view of that, the respondents would not be entitled to recover the amount on account of repay fixation done.

5. In view of that, though the repay fixation is not disturbed, the respondents would not claim recovery pursuant to the impugned order.

6. Writ petition is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

P.S.B.