

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.3260 of 2019

Shrikrushna Ramchandra Pakalwar

...Petitioner

Versus

The Zilla Parishad Gadchiroli, through its Chief
Executive Officer and another

...Respondents

Shri P.S. Kshirsagar, Advocate for the Petitioner

Shri Anoopsingh Parihar, Advocate for Respondents.

**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATED : 01 FEBRUARY 2021

P.C.:

The matter was listed on Board as tagged with Writ Petition No.3259 of 2019, when there is no such Judicial Order in this Petition. The Petition is therefore detached and is heard separately. Accordingly, we have heard learned Counsel for the parties.

2. By this Petition, the Petitioner has challenged the Order dated 05 June 2018 issued by the Respondent No.2-The Chief Audit and Finance Officer, Zilla Parishad, Gadchiroli, seeking to recover an amount of Rs.1,17,628/- from the retirement benefits of the Petitioner.

3. The Petitioner was working as 'Pharmacist' with the Respondent-Zilla Parishad, Gadchiroli. He retired from service on 31 May 2018.

4. By order dated 05 June 2018, recovery is sought to be made from the Petitioner on the ground that excess payment was made towards salary to the Petitioner. The said communication was prior to one week of retirement of the Petitioner.

5. The learned Counsel for the Petitioner has sought to rely upon a decision of the Apex Court in the case of *State of Panjab and Others Vs. Rafiq Masih (White Washer) and others*¹ to contend that the Petitioner is a Class-III employee, he falls within the parameters laid down by the Apex Court in above decision, regarding recovery from a retired employee.

6. The learned Counsel for the Respondents-Zilla Parishad relies upon a decision of the Apex Court in the case of *Jagdish Singh Khehar*².

7. We have considered the arguments. The Petitioner has given an undertaking that the recovery can be made if it is found that the excess payment was made. The period for recovery of the excess amount was also not after unreasonable delay. In fact, it was issued within one week before the Petitioner's retirement.

8. The learned Counsel for the Petitioner then submitted that the Petitioner's pensionary benefits have been withheld because of the

1 (2015) 4 SCC 334

2 AIR 2015 Supreme Court 696

issue of recovery. For this purpose, the Petitioner himself is to be blamed, as had the petitioner returned the amount without resorting the litigation, the pensionary benefits could have been processed. In these circumstances, we do not find any merit to entertain the petition.

9. Since the amount is now already recovered and this Writ Petition is being disposed of, the authority will proceed to process the pensionary benefits of the petitioner and take necessary steps in this regard at the earliest.

10. The Writ Petition is disposed of as above.

[ANIL S. KILOR, J.]

[NITIN JAMDAR, J.]