

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

WRIT PETITION NO. 498 OF 2022

Sureshpal Hukumsing Pahal .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Azizoddin R. Syed, Advocate for the Petitioner.
Shri S. P. Tiwari, A.G.P. for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.
DATE : 18TH JANUARY, 2022.**

FINAL ORDER :

1. The petitioner has retired as a Safai Kamgar (Class IV). From his retiral benefits recovery has been made of Rs. 1,19,522/- on the ground of erroneous pay fixation. The learned counsel relies on the judgment of the Apex Court in a case of State of Punjab and others Vs. Rafiq Masih (White Washers) reported in (2015) 4 SCC 334.

2. According to the learned counsel for the petitioner, hardship would be caused to the petitioner and the recovery is made from the retiral benefits.

3. The learned Assistant Government Pleader for respondents/State submits that, because of erroneous pay fixation excess amount has been paid. The State is entitled to recover the amount from the retiral benefits as per the provisions of the Maharashtra Civil Services (Pension) Rules.

4. We are only considering the case from the point of equity. The amount sought to be recovered from the petitioner is on account of the wrong pay fixation since 2006. Certainly, the petitioner was not responsible for the wrong pay fixation done and the petitioner was working as Class IV employee.

5. The judgment in a case of **State of Punjab and others Vs. Rafiq Masih (White Washers)** (supra) would squarely apply to the facts of the present case. The parameters laid down therein are applicable in the present case.

6. Hardship would be caused to the petitioner if recovery is claimed from the retiral benefits of the petitioner.

7. The learned counsel for the petitioner relies on various orders passed by this Court in similar matters. Reference can be had to the order dated 07th March, 2019 in Writ Petition No. 256 of 2019.

8. In the light of the above, the respondents shall refund the amount recovered on account of wrong pay fixation done within a period of three (03) months from today. The writ petition is disposed of. No costs.

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

bsb/Jan.22