

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

WRIT PETITION NO. 1212 OF 2022

Mahmad Nawab Shaikh .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Avinash S. Khedkar, Advocate for the Petitioner.
Shri A. R. Kale, A.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND
S. G. DIGE, JJ.**

DATE : 14TH FEBRUARY, 2022.

FINAL ORDER :

. The petitioner is in service as a Class III employee. The petitioner is working as a driver. Recovery is claimed from the petitioner on account of wrong pay fixation. The recovery claimed from the petitioner is on the ground that due to wrong pay fixation excess payment is made to the petitioner from the year 2008 to 2020. The learned advocate for the petitioner submits that, there was no misrepresentation on the part of the petitioner. The pay fixation was at the behest of the respondents. The recovery claimed is of a period of more than five years. Hardship would be caused to the petitioner if the recovery is made. The learned counsel relies on the judgment of the Apex Court in a case of State of Punjab and others Vs. Refiq Masih (White Washer) reported in *2015(4) SCC 334* and the orders passed by this Court in Writ Petition No. 695 of 2016 dated 12th February, 2018 and other orders.

2. The learned Assistant Government Pleader for respondents/State submits that, the petitioner has remedy before the Maharashtra Administrative Tribunal. He further submits that, on account of erroneous pay fixation excess payment is made. The respondents are entitled to recover the said amount.

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

4. The petitioner satisfies the parameters laid down by the Apex Court in a case of State of Punjab and others Vs. Refiq Masih (White Washer) (supra). So also this Court has entertained large number of petitions on this ground and the parameters set out in the judgment of the Apex Court in a case of State of Punjab and others Vs. Refiq Masih (White Washer) (supra) are applicable in the present case.

5. In view of the above, the impugned order to the extent of claiming recovery from the petitioner is set aside. In case some amount is already recovered from the petitioner, same be refunded back to the petitioner expeditiously and preferably within a period of four (04) months from today.

6. In the light of the above, the writ petition is disposed of. No costs.

[S. G. DIGE, J.]

[S. V. GANGAPURWALA, J.]