

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

970 WRIT PETITION NO.3277 OF 2021

SHAIKH KHALIL SHAIKH SARDAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr.P.B. Patil, the advocate for the petitioner.
Mr.P.S. Patil, Addl. GP for the respondent/State.

...

**CORAM : RAVINDRA V. GHUGE &
S.G.DIGE, JJ.**

DATE : 08.04.2022

P.C. :

1. We have considered the submissions of the learned counsel for the respective sides.

2. The learned A.G.P. has vehemently opposed this petition contending that there is no merit in the pleadings of the petitioner and the action impugned is perfectly justified. There is a statutory remedy available.

3. We find from the record that the petitioner has superannuated on 13.01.2019. The grievance is that on 07.01.2019, i.e. four days prior to his superannuation, the Accountant General, Nagpur declared that an amount of Rs.81,704/- shall be deducted from the gratuity amount payable to the petitioner on account of his superannuation. After enquiry, the petitioner came to know that there is an objection with regard to his pay fixation and without any

decision on the same, the Accountant General has passed an order withholding Rs.81,704/- from the gratuity amount. Subsequently, the rest of the gratuity amount has been paid.

4. Despite the strenuous contentions of the learned A.G.P., we find that the petitioner's case is squarely covered by the judgment delivered by the Hon'ble Supreme Court in the cases of *State of Punjab & others Vs. Rafiq Masih (White Washer & others (2015) 4 SCC 334* and *Syed Abdul Qadir Vs. State of Bihar (2009) 3 SCC 475*. It is undisputed that there was no undertaking executed by the petitioner as regards the payment of excess amounts, if noticed upon enquiry.

5. Considering the above and in view of the law crystallized by the Hon'ble Supreme Court, which has been followed by this Court, this petition is allowed. The amount of Rs.81,704/- (withheld by respondent no.5 w.e.f. 07.01.2019 which is a part of the gratuity amount) with interest @ 8% p.a., shall be paid to the petitioner, as expeditiously as possible and, in any case, on or before 30th June, 2022.

(S.G.DIGE, J.)

(RAVINDRA V. GHUGE, J.)