

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.2973 OF 2022**

CHABILDAS RAMU GAWANDE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

..RESPONDENTS

...

Mr. Vishnu B. Madan, Advocate for the Petitioner.

Mr. K. N. Lokhande, AGP for Respondents-State.

...

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

DATED : 01st MARCH, 2022.

PER COURT:-

1. Issue notice for respondents. The learned A.G.P. accepts notice for all respondents.

2. The petitioner seeks refund of the amount recovered from the petitioner from gratuity on account of wrong pay fixation / excess payment made.

3. We have heard learned counsel for petitioner and learned A.G.P.

4. The learned counsel for petitioner refers to the order passed by the Division Bench of this Court dated 19.03.2019 in Writ Petition Nos.2344/2019 and 2345/2019 and submits that petitioner in the present writ petition is similarly situated as petitioners in Writ Petition Nos.2344/2019 and 2345/2019 decided on 19.03.2019. The department is same. In Writ Petition

Nos.2344/2019 and 2345/2019 the recovery was made from the gratuity. In the present case also the recovery is made from the gratuity.

5. The learned A.G.P. on going through the judgment dated 19.03.2019 in Writ Petition Nos.2344/2019 and 2345/2019 accedes to the fact that the present petitioner is similarly situated as petitioners in Writ Petition Nos.2344/2019 and 2345/2019.

6. In the said judgment, the Division Bench of this Court allowed writ petitions and directed refund of the amount alongwith the interest at the rate of 10% per annum. The Division Bench of this Court in the said writ petitions passed the following order:

"In that view of the matter, all these writ petitions stands allowed. The excess amount, which is deducted from the amount of retirement dues payable to the petitioners in the form of gratuity, be refunded to the respective petitioners along with interest @ 10% p.a. from the date the amount was recovered. The said refund be made within a period of six months from today."

7. In the light of above, the present writ petition is also disposed of in terms of the order passed in Writ Petition Nos.2344/2019 and 2345/2019 dated 19.03.2019.

8. The respondents shall refund the excess amount deducted from the amount of gratuity. The

payment shall be made within a period of six (06) months.

9. Writ Petition is disposed of. No costs.

(S. G. DIGE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/March-2022