

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

952 WRIT PETITION NO.3301 OF 2022

SAYYED RISALAT ALI KUDARAT ALI
VERSUS
THE CHIEF EXECUTIVE OFFICER & OTHERS

...

Advocate for the petitioner : Mr.Y.B.Bolkar
Advocate for Respondent nos.1 to 3 : Mr.M.S.Sonawane

...

AND

960 WRIT PETITION NO.3312 OF 2022

SAYYED IQBAL SAYYED BHIKAN
VERSUS
THE CHIEF EXECUTIVE OFFICER AND OTHERS

...

Advocate for the petitioner : Mr.Y.B.Bolkar
Advocate for Respondent nos.1 to 3 : Mr.M.S.Sonawane

...

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

DATE : 08.03.2022

P.C. :

1] The learned counsel for the petitioners submits that recovery has been claimed by the respondents from the retiral benefits of the petitioners on the ground of wrong pay fixation. According to the learned counsel, the

petitioners, at the time of retirement, were working as Class-3 employees. Learned counsel refers to the judgment of the Apex Court in the case of **State of Punjab Vs. Rafiq Masih [White Washer]**, reported in 2015 [4] SCC 334.

2] Mr. Sonawane, learned counsel appearing for the respondents submits that the petitioners would be refunded the amount recovered after 2018 but the petitioners are not entitled for refund of the amount which is already recovered prior.

3] It is not disputed that the petitioners, as on the date of retirement, were working as Class-3 employees. Recovery is claimed in respect of the payment made to the petitioners on the basis of wrong pay fixation from the year 2008 onwards. It would not be equitable to recover the said amount from the retiral benefits. It is not the case of the respondents that the petitioners had misrepresented and on the basis of misrepresentation, wrong pay was fixed. The parameters as laid down in the judgment of the Apex Court in the case of **State of Punjab Vs. Rafiq Masih [White Washer]** [supra] are attracted in the present case.

4] In the light of that, the respondents may refund the amount recovered from the retiral benefits of the petitioners on the basis of wrong pay fixation. The same be refunded within six months.

5] Writ Petitions are disposed of. No costs.

[S.G.DIGE, J.]

[S.V.GANGAPURWALA, J.]

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