IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4745 OF 2022

Shivsamb Sangramappa Wadkar .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Mr. Vishwajit R. Jain (Kamboj), Advocate for the Petitioner.
Mr. S. G. Sangle, AGP for Respondent No. 1.
Mr. S. B. Pulkundwar, Advocate for Respondent Nos. 2 and 3.

CORAM : RAVINDRA V. GHUGE &
ANIL L. PANSARE, JJ.

DATED : 13^{th} JULY, 2022.

PER COURT:-

1. Leave to correct the figures of amount deducted, in the pleadings in the petition as well as the prayer clauses. Correction be carried out forthwith.

2. The petitioner, a retired employee, has put forth prayer clause (C) as under :-

> "(C) Issue writ of mandamus or nay other appropriate writ or direction and be pleased to direct to the respondent Nos. 2 and 3 to refund an amount of Rs. 82,869/- with interest to the petitioner which was deducted from the amount of Death-cum retirement gratuity."

3. The learned counsel representing the Zilla Parishad has caused an appearance on behalf of respondent Nos. 2 and 3. He submits on queries from the Court that neither the petitioner had given any

undertaking, nor the petitioner was heard prior to deducting the amount of Rs. 82,869/- from his retiral benefits.

4. It appears that the amount deducted from the retiral benefits of the petitioner is on account of over payment of pay and allowances including leave salary. Admittedly, prior to his retirement, there was no show cause notice issued to him, much less any hearing given. No undertaking was taken from the petitioner so as to agree that excess payment would be returned to the employer.

5. In view of the above, the petitioner's case is squarely covered by the judgments of the Hon'ble Apex Court in a case of **State of Punjab and others Vs. Rafiq Masih (White Washer)** reported in **(2014) 8 SCC 883** and in case of **Syed Abdul Qadir and others Vs. State of Bihar and others** reported in **(2009) 3 SCC 475**.

6. In view of the above, this petition is allowed. The deduction of Rs. 82,869/- shall be returned to the petitioner alongwith simple interest at the rate of Rs. 3% per annum from the date of such deduction. Such amount shall be paid to the petitioner on or before 15.10.2022.

(ANIL L. PANSARE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

P.S.B.