

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition (WP) No. 2442/2021

1. Shyamrao s/o Dasram Channe,
Aged about 59 years,
Occupation – Retd., Higher Grade Head Master,
R/o. at and Post Mohgaon,
Tah. Goregaon, District – Gondia.
2. Tejram s/o Fanindranath Katre,
Aged about 59 years,
Occupation – Retd., Assistant teacher,
R/o. Mhasgaon, Tah. Goregaon,
District - Gondia.
3. Kishor s/o Pandurang Meshram,
Aged about 58 years,
Occupation – Retd. Assistant Teacher,
R/o. at Zanzia Post – Soni,
Tah. Goregaon, District- Gondia.
4. Namdeo s/o Babulal Rahangdale,
Aged about 58 years,
Occupation – Retd., Assistant Teacher,
R/o. at and Post Goregaon,
Tah. Goregaon, District – Gondia.
5. Yogendra s/o Surajlal Katre,
Aged about 58 years,
Occupation – Retd., Assistant Teacher,
R/o. at Bote, Post – Mhasgaon,
Tah. Goregaon, District – Gondia.
6. Nutanlal s/o Chunnilal Rahangdale,
Aged about 58 years,
Occupation – Retd., Assistant Teacher,
R/o. at and Post Katangi,
Tah. Goregaon, District – Gondia.

7. Dhanlal s/o Rajaram Channe,
Aged about 59 years,
Occupation – Retd., Assistant Teacher,
R/o. at and Post Goregaon,
Tah. Goregaon, District – Gondia.
 8. Roshanlal s/o Ramchandra Nandeshwar,
Aged about 59 years,
Occupation – Retd., Assistant Teacher,
R/o. Bhadanga, Post – Mundipar,
Tah. Goregaon, District – Gondia.
 9. Nutanlal s/o Khetri Bisen,
Aged about 59 years,
Occupation – Retd., Assistant Teacher,
R/o. at and Post Mohadi,
Tah. Goregaon, District – Gondia.
 10. Bhumeshwar s/o Khushal Katre,
Aged about 59 years,
Occupation – Retd., Assistant Teacher,
R/o. at Gidhadi, Post – Mohadi,
Tah. Goregaon, District, Gondia.
 11. Khemlal s/o Radhelal Mahule,
Aged about 61 years,
Occupation – Retd., Higher Grade Head Master,
R/o. at Kamthatola, Post – Kamtha,
Tah. & District – Gondia.
 12. Smt. Rekha w/o Pradip Karande,
Aged about 59 years,
Occupation – Retd., Higher Grade Head Mistress,
R/o. at and Post – Katangi Bk.,
Tah. Goregaon, District – Gondia.
- PETITIONER(S)

// VERSUS //

1. State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai.

2. Zilla Parishad, Gondia,
Through its Chief Executive Officer,
Gondia, Tah. & District – Gondia.
3. Deputy Chief Accounts and Finance
Officer, Zilla Parishad, Gondia,
Tah. & District – Gondia.
4. The Education Officer (Primary),
Zilla Parishad, Gondia,
Tah. and District – Gondia.
5. Block Development Officer,
Panchayat Samiti, Goregaon,
Tah. Goregaon, District – Gondia. RESPONDENT(S)

 Shri I.N. Choudhari, Advocate for the petitioners
 Ms. Hemlata Jaipurkar, AGP for respondent no. 1/State
 Shri Anoop Parihar, Advocate for respondent nos. 2 to 5

CORAM : A.S. CHANDURKAR AND SMT. M.S. JAWALKAR, J.J.

DATED : 15/03/2022

ORAL JUDGMENT : (PER:- A. S. CHANDURKAR, J.)

Rule. Rule made returnable forthwith. Heard the learned counsel for the parties.

2 The petitioners are retired Class III employees of Zilla Parishad, Gondia. They are aggrieved by the action taken by the Zilla Parishad for recovering amounts towards alleged over-payments made to them as well as for non-submission of Computer Knowledge Certificate. Since such recovery is sought to be made after their retirement and as it is their case that they were not responsible for such over-payments in

any manner whatsoever, by relying upon the judgment of the Hon'ble Supreme Court in *State Of Punjab & Others Vs. Rafiq Masih (White Washer) and anr.* [(2015) 4 SCC 334] it is prayed that such recovery be set aside and the amounts already recovered be directed to be repaid to them.

3. It is the case of the petitioners that each one of them was in employment with Zilla Prishad, Gondia on Class III posts. After their retirement Zilla Parishad issued pension and gratuity release orders. However subsequently the Zilla Parishad sought to recover alleged over-payments made to them and also raised a ground that some of the petitioners had not submitted Computer Knowledge Certificate during their service. It is submitted by the learned Counsel for the petitioners that such recovery, that too after retirement was totally illegal and contrary to the law laid down by the Hon'ble Supreme Court. Reference was made to orders passed with regard to the same Zilla Parishad in Writ Petition No. 3134/2018 (*Smt. Sunita Wd/o Sunil Patle Vs. The State of Maharashtra and ors.*) and Writ Petition No. 748/2019 (*Smt. Nandini widow of Naliram Thakre Vs. The State of Maharashtra and ors.*). It was thus submitted that in view of the law laid down by the Hon'ble Supreme Court as followed by this Court in the said judgments, similar relief be granted to the petitioners.

4. The learned Counsel for the Zilla Parishad supported the orders of recovery and submitted that since there were over-payments made to the petitioners and some of them had not submitted the Computer Experience Certificate there was no illegality in issuing directions to recover excess payments as made.

5. On hearing the learned Counsel for the parties and after perusing the documents on record, we find that it is undisputed that all petitioners are Class III employees and have superannuated from service. During the course of service no recovery was sought to be made as is now being made. It is not the case of the Zilla Parishad that by fraudulently or deliberately furnishing incorrect information such benefits were granted to the petitioners. We find that the present petitioners are similarly situated to the employees at whose behest Writ Petition Nos. 3134/2018 and 748/2019 had been filed. The law laid down in *Rafiq Masih (supra)* is clearly attracted to the facts of the present case. The impugned action of recovery after retirement and withholding service benefits is contrary to law. In that view of the matter, the petitioners would be entitled for the relief as prayed for. Accordingly, the following order is passed:-

(a) The writ petition is allowed in terms of prayer Clause (i) thereof.

(b) Zilla Parishad, Gondia shall release the amount withheld/refund any amount recovered to each petitioner as the case may be within a period of three months from the receipt of a copy of this order.

6. Rule is made absolute in the aforesaid terms with no order as to costs.

JUDGE

JUDGE

SANDIP
MAHADEV
GATE

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