

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO.7400 OF 2019**

Omprakash Kisan Tade,  
Aged about 62 years, Occu. - Retired,  
R/o Bordi, Tah. Akot, Dist. Akola. .... **PETITIONER**

**// VERSUS //**

- 1) Maharashtra Jeevan Pradhikaran,  
through its Member Secretary,  
4<sup>th</sup> Floor Express Towers, Nariman Point,  
Mumbai.
- 2) Superintending Engineer,  
Maharashtra Jeevan Pradhikaran  
Mandal, Near Nehru Park, Akola
- 3) Deputy Chief Accounts Officer  
(I), Maharashtra Jeevan Pradhikaran,  
CIDCO Bhawan, Belapur, Navi Mumbai.
- 4) State of Maharashtra, through its Secretary,  
Department of Water Supply and Sanitation,  
7<sup>th</sup> Floor, Gokuldas Tejpal Hospital  
Building, Near Croffered Market, Lokmanya  
Tilak Mark, Mumbai. .... **RESPONDENT**

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Shri P.D.Meghe, Advocate for the petitioner.  
Shri D.M.Kakani, Advocate for respondent Nos.1 to 3.  
Shri. D.P. Thakare, Addl.G.P. for respondent No.4.

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**CORAM : SUNIL B. SHUKRE AND  
SMT. M.S. JAWALKAR, JJ.**

**DATED : 19.04.2022**

**ORAL JUDGMENT** : (Per Sunil B. Shukre, J.)

1. Heard. **Rule.** Rule made returnable forthwith. Heard finally  
by consent of the learned counsel appearing for the parties.

2. Learned counsel for the petitioner, on instructions, does not press prayer Clause-(i), as the order dated 10.07.2019, revising the pay-scale payable to the petitioner, was beneficial for the petitioner, which is also reflected in the revised pay fixation order dated 06.08.2019 which raises the basic pension payable to the petitioner from Rs.5,080/- to Rs.5,335/-. Thus, the challenge to the order dated 06.08.2019 to the extent, it revises the pension payable to the petitioner, on the higher side, also goes. Now what remains is the recovery of excess payment made to the petitioner. Law on this point is well settled. As held in the case of **State of Punjab and ors Vs. Rafiq Masih (White Washer) and others, reported in (2015) 4 Supreme Court Cases 334**, recovery from employees belonging to Class III and Class IV service (or Group C and Group D Service), is not permissible under any circumstances, especially when the recovery is sought to be made after retirement of such employees. The case of the petitioner is squarely covered by the law so laid down by the Hon'ble Apex Court in the said case of State of Punjab and ors Vs. Rafiq Masih (White Washer) and others(supra), and therefore, we are of the view that the impugned order dated 06.08.2019 to the extent it orders recovery of excess payment made to the petitioner is liable to be quashed and set aside, it being illegal and against the law laid down by the Hon'ble Apex Court.

3. In the result, the Writ Petition is partly allowed. Respondents are directed to not recover any excess amount already paid to the petitioner and they are further directed to refund the amount so recovered from the petitioner on account of excess payment in four equal monthly installments starting from 1<sup>st</sup> June, 2022.

4. Rule is made absolute in above terms. No costs.

(SMT. M.S. JAWALKAR, J.)

(SUNIL B. SHUKRE, J.)

*Kavita.*