

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

WRIT PETITION NO.2219 OF 2023

**LAXMIBAI RAMESH SALUNKE ALIAS SOLUNKE
THROUGH LATE RAMESH SIDRAM SALUNKE ALIAS
SOLUNKE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...
Advocates for the Petitioner : Shri Balaji Yenge i/by Shri Ajay
Shinde
AGP for Respondents 1 to 5/State : Shri V.M. Kagne
...

**CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.**

DATE :- 02nd March, 2023

Per Court :-

1. The petitioner is the widow of an employee, who received revised pay fixation benefits from 08.05.2006 and who passed away on 01.07.2021 while being in employment. The issue is that the employer-establishment has calculated recovery of Rs.4,50,554/- from the gratuity amount, which is now payable to the widow.

2. We have considered the submissions of the learned advocate for the petitioner and the learned AGP for the State

authorities. It is undisputed that the pay fixation benefits received by the deceased from May, 2006, were continued uninterruptedly until his demise while in employment. Thereafter, the employer felt that excess amount was paid to the deceased and the said amount is now being sought to be recovered from the service benefits/ gratuity amount, payable to the widow. The record does not indicate that the deceased was involved in his pay fixation or that he orchestrated a wrongful higher pay fixation or that he played a fraud on the establishment in securing higher pay scales. In these circumstances, the case of the deceased is squarely covered by the law laid down by the Honourable Supreme Court in *Syed Abdul Qadir and others vs. State of Bihar and others*, (2009) 3 SCC 475 and *State of Punjab and others vs. Rafiq Masih (White Washer) and others*, (2015) 4 SCC 334.

3. In view of the above, **this Writ Petition is allowed.**
4. Respondent No.4/District Collector, Latur, shall ensure that the retiral/service benefits of the deceased are released in order to be paid to the legally wedded wife of the deceased, which is the petitioner herein, within a period of 45 (forty five) days from today. All payments, including the gratuity, having been delayed, this would entail interest at the rate of 6%

per annum, which shall also be paid to the petitioner along with all unpaid amounts.

kps (SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)