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

56 WRIT PETITION NO.3771 OF 2023

**SHRI. ATMARAM TUKARAM JADHAV
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

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Mr A. V. Indrale Patil, Advocate for Petitioners;
Mr S. G. Karlekar, A.G.P. for Respondent No.1
Mr S. B. Pulkundwar, Advocate for Respondent Nos.2 to 4

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

DATE : 3rd April, 2023

PER COURT:

1. The Petitioner has put forth prayer clause (B), which reads as under :-

“B) By issuing writ of mandamus or any other appropriate writ, order or directions, the impugned action of respondents thereby recovering an amount of Rs.1,78,550/- (One Lakh Seventy Eight Thousand Five Hundred and Fifty Rupees Only) from pensionary benefits of petitioner be quashed and set aside. Consequently, the respondents be directed to refund an amount of Rs.1,78,550/- along with interest at the rate of 12% of per annum and for that purpose necessary direction be issued.”

2. The learned advocate representing respondent - Zilla Parishad, submits on the basis of the record that, the petitioner

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was never called upon to tender an undertaking that he would refund any excess amount, if inadvertently is paid to him. There is no allegation of fraud against the petitioner. There is also no allegation that he orchestrated a wrong pay fixation, so as to derive excess payments. Laches or oblique motives are not attributed to him.

3. Considering the above and keeping in view the law laid down in **Syed Abdul Qadir Vs. State of Bihar, 2009 (3) SCC 475** and **the State of Punjab and others Vs. Rafiq Masih (White Washer) and others, 2015 (4) SCC 334**, this **petition is allowed**. The impugned action/order of recovering the amount of Rs.1,78,550/- from the pensionary benefits of the Petitioner, dated 28/05/2021, is quashed and set aside. Needless to state, the said amount along with the admissible interest @ 6% per annum, shall be paid to the Petitioner, on or before 30/06/2023.

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

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