

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

946 WRIT PETITION NO.7752 OF 2021

KHALEEL AHMED KHAN GULAM AHMED KHAN
VERSUS
THE STATE OF MAHARASHTRA THR ITS SECRETARY AND
OTHERS

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Advocate for Petitioner : Mr. S.B. Sontakke
AGP for Respondent no.1 : Mr. PK. Lakhotiya

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CORAM : MANGESH S. PATIL & S. G. CHAPALGAONKAR, JJ.
Dated: June 08, 2023

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PER COURT :-

. Heard learned advocate for the petitioner and the learned AGP for respondent no.1.

2. The respondent nos.2 to 4 had initially caused appearance, but remained absent subsequently. A notice regarding final disposal at the admission stage was also served to them but they have not caused appearance.

3. The petitioner was superannuated as Pharmacist and is aggrieved by the recovery of amount of Rs.1,31,758/- made from him post-retirement on the ground that there was an error in fixation of his pay and he was overpaid.

aaa/-

4. Since, respondent nos.2 to 4, under whom the petitioner was serving have not appeared and filed any affidavit-in-reply, one will have to proceed on the basis of the averments made in the petition with annexures.

5. It is quite apparent from the order dated 3.7.2018 that respondent no.3 had expressly directed recovery of the aforementioned amount from the pension emolument to the petitioner and then it has been subsequently recovered.

6. It is not the case of the respondents that any undertaking was obtained from the petitioner to refund the money, if some error was to occur while undertaking fixation of his pay. His case would be squarely covered by the decision in the matter of **State of Punjab Vs. Rafiq Masih (White Washer)**, reported in **“2015 (4) SCC 334”**.

7. Petition is allowed. Respondent nos.2 to 4 are directed to pay to the petitioner an amount of Rs.1,31,758/- as expeditiously as possible, and in any event within a period of (3) three months. If the payment is not made within that period, the amount shall carry interest @ 6% per annum.

aaa/-

8. Writ Petition is disposed of.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

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aaa/-