

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

WRIT PETITION NO. 9937 OF 2023

SAMINA ANJUM ABDUL KAYUM SHAIKH
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

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Advocate for Petitioner : Mr. Mathpati Shivkumar K
AGP for Respondents : Mr. A.S. Shinde
Advocate for Respondent No.3 : Mr. S.B. Pulkundwar

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 10 AUGUST 2023.

PER COURT :

. Heard the learned Advocate for the petitioner, learned AGP and learned Advocate Mr. Pulkundwar who appears for respondent no.3.

2. The petitioner's husband was working as Watchman with the respondent no.5 and died on 22.12.2010 while in the employment. By the impugned communication dated 01.09.2021, the respondent no.2 finding that the petitioner's husband was not entitled to any dearness allowance which was illegally paid to him for the period 01.02.2011 to 28.02.2021 has called upon the petitioner to refund it, Rs.4,84,848/- and till then directed the family pension receivable by the petitioner to be stayed.

3. In our view the circumstance is squarely covered by the decision in the matter of **State of Punjab and Others Vs. Rafiq Masih (White Washer) and Others**, reported in (2015) 4 SCC 334 and particularly category nos. 1 to 3 from paragraph no.18.

4. In the light of above, we allow the writ petition, quash and set aside the impugned communication. If any recoveries are already made pursuant to such excess payment that shall be refunded to the petitioner as expeditiously as possible and in any case within twelve weeks.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb...