

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

WRIT PETITION NO. 2288 OF 2022

Smt. Kavita Wd/o. Kailash Sahare
Aged 51 yrs, Occ : Private,
R/o, Near Jakat Naka, Lakhandur
Road, Kasturba Ward Desaigang
(Wadsa), Gadchiroli.

.....**PETITIONER**

...V E R S U S...

(1) The Zilla Parishad Gadchiroli,
through its Chief Executive Officer.

(2) The Deputy Chief Audit and
Finance Officer, Zilla Parishad,
Gadchiroli.

.....**RESPONDENTS**

Mr. P. S. Kshirsagar, Advocate for the petitioner
Mr. S. D. Zoting, Advocate for respondent 2

CORAM : ROHIT B. DEO AND
MRS. VRUSHALI V. JOSHI, JJ.

DATE : 12-04-2023

ORAL JUDGMENT (PER : Rohit B. Deo, J.)

Rule. Rule made returnable forthwith. Heard finally
with consent of the learned counsel appearing for the parties.

2. Challenge is to the order dated 14-6-2021 issued by respondent 2 directing recovery of Rs. 7,34,895/- (Rupees Seven Lacs Thirty Four Thousand Eight Hundred Ninety Five) from the death – retiral benefits of the petitioner's husband.

3. The recovery is ordered on the premise that excess payment was made to the deceased employee while granting one step promotional pay scale.

4. It is not in dispute that the husband of the petitioner expired in harness on 20-4-2021 and the recovery is ordered after his death.

5. Learned counsel for respondent 2 fairly invites our attention to the decision in *Writ Petition 4835/2021 (Smt. Sudha wd/o Bhagirath Meshram Vs. Zilla Parishad, through its C.E.O., District Gadchiroli and ors.)* which is rendered in similar fact situation.

6. For reasons recorded in the judgment dated 27-3-2023 in *Writ Petition 4835/2021*, with which reasons we

respectfully agree, and in view of the decision of Hon'ble Supreme Court in *State of Punjab & Others Vs. Rafiq Masih (White Washer) and anr. [(2015) 4 SCC 334]*, we allow the petition in terms of prayer clauses (i) and (ii), except that we are not directing payment of interest. If any amount is already recovered, the same shall be refunded within the next eight weeks.

7. If the amount is not refunded within eight weeks, the same shall carry interest at the rate of 12% per annum.

(Mrs. Vrushali V. Joshi, J.)

(Rohit B. Deo, J.)

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