

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

WRIT PETITION 5257 OF 2022

Hari Ram Yadav,
 aged 60 yrs, Occ. Inspector(Retd.),
 Railway Protection Force,
 South East Central Railway, Nagpur,
 residing at Village Rakhba Jalalpur,
 Post Office Kothwa Jalalpur (Koilsa),
 District Azamgarh Uttar Pradesh

.....PETITIONER

...VERSUS...

1. The Union of India,
 through its Divisional Railway Manager,
 South East Central Railway, Kingsway,
 Nagpur 440 001

2. The Senior Divisional Security
 Commissioner, Railway Protection Force,
 South East Central Railway, Kingsway,
 Nagpur.

..RESPONDENTS

 Mr. Rahul Dhande, counsel for petitioner.
 Mrs. Mugdha Chandurkar, counsel for respondents.

CORAM:- ROHIT B. DEO & Y.G. KHOBRAGADE, JJ.

DATE : 14.02.2023

JUDGMENT (Per: Rohit B. Deo, J.)

Heard.

2. The petitioner superannuated from the Railway Protection Force as an Inspector, which is a 'Group-C' post, on

31.5.2021.

3. The challenge in the petition is to the order of recovery issued by the respondent 2 on 31.5.2021, whereby amount of Rs. 1,52,780/- is directed to be recovered on the premise that the pay scale of the petitioner stood reduced from Rs. 58,600/- to Rs. 56,900/-.

4. We have perused the affidavit in response filed on behalf of the respondents.

5. The stand of the respondents is that even prior to the superannuation, the petitioner was served with punitive order dated 27.4.2021 imposing punishment of reduction of pay to the lowest stage in the existing pay scale of Rs. 56,900/-. The respondents would submit that the punitive order has assumed finality since no challenge is mounted in appeal. Respondents have clarified that as a fact Rs. 78,300/- is recovered in view of the order of punishment and the recovery due to excess payment as such is only Rs. 74,480/-. The excess payment was, according to the respondents, due to incorrect pay fixation.

6. In the present petition, we are not required to look into the order of punishment and it would be open for the petitioner to

challenge the punitive action, if so advised.

7. We, however, note the submission of learned counsel for petitioner Mr. Rahul Dhande that the petitioner shall be satisfied if amount of Rs. 74,480/- which is recovered on the premise of excess payment is refunded to the petitioner within a stipulated period.

8. In view of the admitted position that the petitioner was 'Group-C' employee when he superannuated, and in view of the decision of the Hon'ble Supreme Court in ***State of Punjab and Others Vs. Rafiq Masih (White Washer) etc***, reported in ***(2014) 8 SCC 883***, we see no impediment in granting the limited relief claimed.

9. We, therefore, allow the petition in part by directing the respondents to refund to the petitioner the amount of Rs.74,480/- (Rupees Seventy Four Thousand Four Hundred Eighty) which was recovered on the premise of excess payment due to incorrect pay fixation, within the next six weeks.

(Y.G. Khobragade, J.)

(Rohit B. Deo, J.)

belkhede

Digitally Signed By:BELKHEDE
RAVINDRA SURESHRAO
P.A. to the Hon'ble Judge
Signing Date:16.02.2023 10:17