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

903 WRIT PETITION NO. 6845 OF 2024

SURYAKANT SHESHRAO SURYAWANSHI

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

....

Mr V. R. Jain, Advocate for Petitioner;
Mr S. R. Yadav Lonikar, A.G.P. for Respondent No.1
Mr S. B. Pulkundwar, Advocate for Respondent Nos.2 and 3

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRADE, JJ.**

DATE : 10th July, 2024

PER COURT:

1. Leave to add prayer clause C(i). Addition be carried out forthwith.
2. The Petitioner is a 65 years old retired employee, who was working as an 'Attendant' falling in Class-III category. He has superannuated on 28/02/2017. On 09/03/2017, the Respondent/Zilla Parishad passed the order directing recovery of

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Rs.71,980/- from the gratuity amount payable to the Petitioner. The said amount was deducted and held back.

3. We have heard the learned Advocate for the Zilla Parishad, who has vehemently opposed this Writ Petition. It is admitted that, no undertaking was taken from the Petitioner. No opportunity of hearing was given to him prior to carrying out the deduction. There is no allegation against the Petitioner, that while he was in service, he had orchestrated a wrong pay fixation so as to earn more amounts, illegally.

4. In view of the above, the Petitioner's case is squarely covered by the judgments of the Hon'ble Supreme Court in cases of **State of Punjab and others Vs. Rafiq Masih (White Washer), (2014) 8 SCC 883**, and **Syed Abdul Qadir and others Vs. State of Bihar and others, (2009) 3 SCC 475**.

5. The learned Advocate for the Zilla Parishad submits that the Petitioner has belatedly approached this Court. A cause of action of 2017 is sought to be espoused by filing this petition on 26/06/2024. Hence, interest may not be granted to the petitioner.

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6. The learned Advocate for the Petitioner submits that, at least 3 years interest may be granted by considering a reasonable period of 3 years.

7. Having considered the above, we are of the view, that the interest @ 3% p.a., as granted to similarly situated employees, could be restricted to a period of 3 years, preceding the date of filing the Writ Petition.

8. **This Writ Petition is, therefore, allowed.** The deducted amount of Rs.71,980/- shall be returned to the Petitioner along with simple interest @ 3% p.a. for a period of 3 years, preceding the date of the filing of this Petition. The said amount shall be paid within 60 days.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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