



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12944 OF 2024

Prakash Laxman Kadam And Ors

...Petitioners

Versus

The State Of Maharashtra And Ors

...Respondents

...

Adv. Imtiyaz Patel for the Petitioners.

Adv. B. V. Samant, Add GP a/w M. M. Pabale, AGP for Respondent Nos.
1 to 5.

...

CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.

DATE : 19th NOVEMBER, 2024

Per Court :-

1. Leave to add prayer clause a(1) for challenging the orders of recovery. Addition be carried out forthwith.

2. The Petitioners have placed reliance on the judgment of the Hon'ble Supreme Court delivered in *State of Punjab And Ors. vs. Rafiq Masih (White Washer)*, reported in AIR 2015 Supreme Court 696. These three Petitioners have superannuated around 8 to 9 years ago. Recoveries have been ordered against them, post retirement, on the ground that their pay fixation was wrongly done during their service tenure, around 1996-

97. Their dates of retirement are set out in paragraph 4 on page 7 of the memo of the Petition. The amounts recovered are also set out therein. All these Petitioners were working as constables.

3. The learned AGP has opposed the Petition on instructions and submits that if, these Petitioners are permitted to retain the excess amounts paid, it would amount to unjustful enrichment.

4. We are aware of the law laid down by the Hon'ble Supreme Court in *Syed Abdul Qadir And Ors vs State Of Bihar And Ors 2009 (3) SCC 475* and *Rafiq Masih* (supra). These Petitioners have retired as per the dates set out herein below :-

Sr. No.	Name	Position held at retirement	Date of Retirement	Amount recovered as excess amount (Rs.)
1.	Prakash Laxman Kadam	Assistant Sub-Inspector	01.05.2014	73,104/-
2.	Kishor Gajanan Patkar	Assistant Sub-Inspector	30.11.2012	75,199/-
3.	Anand Chandrakant Rawool	Assistant Sub-Inspector	31.05.2018	96,933/-

3. In similar matters, this Court has quashed and set aside the recovery orders and refunded the amounts to the concerned employees with a nominal interest of 6% p.a. for a period of three years preceding the date of the filing of the Petition or the dates of retirement, whichever may have last occurred.

4. In view of the above, **this Writ Petition is allowed.** The impugned orders of recovery set out in prayer clause a(1), stand quashed and set aside. Let the amounts be refunded to the Petitioners in the light of the chart reproduced above along with interest at the rate of 6% p.a. only for the last 3 years, within a period of 60 days from today.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)