



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 287 OF 2025

JAYSHREE SATISH GORE
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for the Petitioner : Mr. Tukaram Maruti Venjane
AGP for Respondent Nos. 1 to 3 : Ms. S. S. Joshi
Advocate for Respondent No. 4 : Mr. U. B. Bondar

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CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR , JJ.

DATE : 10.02.2025

PER COURT :

. The petitioner is before us, being aggrieved by the fact that for a pre-sanctioned leave, after demise of her husband, recoveries have been ordered by the impugned communication under different heads, including the salary paid to the predecessor for the leave period.

2. We have heard learned advocate for the petitioner, learned AGP and Mr. Bondar, who appears and argues the matter for respondent No. 4.

3. By the impugned communication (**Exhibit-'H'**) dated

04.10.2024, while sanctioning family pension, recoveries have been sought to be made from the monitory benefits to be derived by the petitioner, for recoveries in respect of failure of the deceased to complete the MS-CIT course within the stipulated time, with the tune of Rs. 14,673/-. Salary granted to the husband of the petitioner for a period from 10.01.2023 to 31.10.2023 was Rs. 9,43,826/-.

4. Considering the fact that the petitioner's husband was class – 3 employee, in the light of *The State of Punjab Vs. Rafiq Masih (White Washer) reported (2015) 4 SCC 334*, the recoveries would not be permissible in law.

5. Though the list is not exhaustive, the petitioner's case would be covered by at least two of the instances quoted therein. The deceased being a class-3 employee and the recoveries being iniquitous, inasmuch as the deceased was paid the salary after leave was granted for the concerned period by the Block Education Officer.

6. The learned advocate Mr. Bondar for respondent No. 4 – Education Officer submits that leave was not admissible to the deceased but was granted erroneously. This may be so but for which no fault is attributable to the deceased. If the office has erroneously granted him leave and had paid salary to him making recovery after demise holding that he was not entitled to have the salary, in our considered view, is iniquitous. The fault did not lie with him and was

the error by the office in paying him the salary. Furthermore, he was admittedly a cancer patient and had applied for the leave on medical grounds.

7. In view of the above, the Writ Petition is allowed.

8. The impugned order is quashed and set aside. Respondent No. 4 shall release all the pensionary benefits to the petitioner as expeditiously as possible, without indulging in any deductions as indicated in the impugned communication.

9. The money shall be disbursed in any case within six (06) weeks, failing which, it shall carry interest @ 6% per annum.

(PRAFULLA S. KHUBALKAR, J.)

(MANGESH S. PATIL, J.)

jhs/