



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3728 OF 2017

Shaheen Tabassum w/o Late Syed Noorul Iqbal,
Age; 54 years, Occ; Assistant Teacher,
R/o; H. No. 1-12-31 P. Pragati Colony,
Aurangabad.

....PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Education Department,
Mantralaya Mumbai – 400 032.
2. Block Development Officer,
Class-I, Panchyat Samiti,
Bhokardan, Taluka Bhokardan,
District Jalna.
3. Senior Accounts Officer,
Zilla Parishad, Jalna.

...RESPONDENTS.

...
Advocate for the Petitioner : Mr. A.N. Ansari
AGP for Respondent No. 1/State : Mr. V.K. Kotecha
Advocate for Respondent Nos. 2 & 3 : Mr. S. R. Yadav Lonikar
...

CORAM : NITIN B. SURYAWANSHI AND
SMT. VAISHALI PATIL-JADHAV, JJ.

DATE : 15.10.2025

ORAL JUDGMENT : (PER : NITIN B. SURWANSHI, J.)

1. Rule. Rule is made returnable forthwith. With the consent of

the parties, heard finally at the admission stage.

2. This petition challenges the letter No. 2016/PS/Family Pension/Kavi/819, dated 30.05.2016, issued by Block Development Officer Class-I, Panchayat Samiti Bhokardan, Taluka Bhokardan, District Jalna and seeks direction to respondent No. 2 to release the withheld family pension of the petitioner from May-2015 to May-2016. The husband of the petitioner was serving as Extension Officer in Zilla Parishad Jalna. He expired on 13.09.2011 due to heart attack. By order dated 05.05.2012 family pension of Rs. 12,300/- p.m. was sanctioned to the petitioner. The petitioner was getting regular family pension till April, 2015, however, the family pension of the petitioner was withheld from May- 2015 till May-2016. By letter dated 30.05.2016, respondent No. 3 informed the petitioner that an amount of Rs. 4,48,661/- is liable to be recovered from the petitioner towards the Dearness Allowance paid to her, to which she was not entitled to.

3. By representation dated 08.11.2016, the petitioner informed respondent No. 2 that she has not suppressed anything from the respondents and for no fault on her part the Dearness Allowance was paid to the petitioner and therefore, the same is not liable to be recovered. The family pension was released to the petitioner from May-2016 onwards.

4. Being aggrieved by the non payment of the family pension for a period between May-2015 till May-2016, the petitioner has filed present petition seeking direction to the respondents to pay her withheld family pension and further prayed for setting aside the recovery of Rs. 4,48,661/-. In support of the petition, the learned Advocate for the petitioner has relied on a decision in **State of Punjab & Ors vs Rafiq Masih (White Washer) etc** in CA No.11527 of 2014 (Arising out of SLP(C) No.11684 of 2012).

5. Learned Advocate for respondent Nos. 2 and 3 submitted that the ratio in **State of Punjab & Ors vs Rafiq Masih (White Washer)** (supra) is not applicable to the facts of the present case. The petitioner was in service while the family pension was sanctioned to her. The Dearness Allowance was not liable to be paid to her and the same was inadvertently paid to her, therefore, the recovery of the same is rightly sought from the petitioner.

6. Heard the learned Advocates for the petitioner and respondents respectively and perused the record.

7. Since the petitioner is receiving family pension, she was not entitled for Dearness Allowance, which was inadvertently paid to her. The respondents are, therefore, justified in seeking recovery of the amount of Dearness Allowance paid to the petitioner. The ratio in the

case of **State of Punjab & Ors vs Rafiq Masih (White Washer)** (supra) is applicable to the cases of Class-III and Class-IV employees. Since the petitioner is not a Class-III or Class-IV employee of the Zilla Parishad, therefore, the ratio of **State of Punjab & Ors vs Rafiq Masih (White Washer)** (supra) is of no help to the case of the petitioner.

8. In view of the above, we find no merit in the petition and we are of the view that respondents are justified in seeking recovery of Rs. 4,48,661/- from the petitioner as the said amount was mistakenly paid to the petitioner, to which she was not entitled to. The withheld family pension for a period in between May-2015 to May-2016 is approximately Rs. 1,35,000/-. Deducting this amount, the respondents are entitled to recover an amount of Rs. 3,13,661/- from the petitioner. The same may be recovered by deducting in equal installments from the family pension of the petitioner.

9. With the above observations, the Writ Petition is dismissed.

10. The rule is discharged.

(SMT. VAISHALI PATIL-JADHAV)
JUDGE

(NITIN B. SURYAWANSHI)
JUDGE