

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2623 OF 2025

Anandrao s/o. Shamrao Panke ,
Age 60 Years, Occ. Pensioner,
R/o. G.A.290, Shivdarshan Colony,
Near Gandharv Hotel, Malkapur,
Satara, Tq. & Dis. Satara

.... Petitioner

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
Water Supply and Sanitation Department,
Mantralaya, Mumbai.
2. The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai.
3. The Member Secretary,
Maharashtra Jeevan Pradhikaran,
4th Floor, Express Towers,
Ramnath Goenka Marg,
Nariman Point, Mumbai.
4. The Senior Account Officer,
(Pension Division),
Maharashtra Jeevan Pradhikaran,
Cidco Bhavan, (South Zone) 3rd Floor,
Belapur, New Mumbai – 400 614.
5. The Executive Engineer,
Maharashtra Jeevan Pradhikaran,
Division Kolhapur,
Tararani Chowk, Favala Naka, Kolhapur,
Tq. & Dist. Kolhapur.
6. The Superintendent Engineer,
Maharashtra Jeevan Pradhikaran Circle,

Near Jalbhavan Guest House,
South Shivaji Nagar,
Sangli Tq. & Dist. Sangli.

7. The Superintendent Engineer,
Maharashtra Jeevan Pradhikaran,
Regional Parimandal Office, Pune
Central Building, 1st Floor,
Pune -1.

Mr.Chintamani K. Bhangoji for the Petitioner.

Mr.P.P.Kakade, Addl.GP with Mr.V.G.Badgujar, AGP for
Respondent Nos. 1 and 2, State.

Mr.Ajit Pitale with Mr.Siddharth Pitale for Respondent Nos. 3 to 7.

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

DATE : 09TH APRIL, 2025

ORAL JUDGMENT (*Per : Ravindra V. Ghuge, J.*)

1. **Rule.** Rule made returnable forthwith and heard finally
with the consent of the parties.

2. The Petitioner has put forth prayer clauses (B), (C) and
(D), as under :

*“B) This Hon’ble court By issuing writ of
certiorari or any appropriate writ, order or
direction in like nature, impugned
Communication dt. 14/10/2021 issued by the*

Res. No. 4 and consequential impugned decision dated 06/12/2021 taken by the Res. No. 5 thereby directing to recover amount of Rs. 2,86,757/- from gratuity of the petitioner may kindly be quash and set aside.

C) This Hon'ble court By issuing writ of mandamus or any other appropriate writ, order or direction in like nature the respondent No. 4 and 5 may kindly be directed to refund recovered amount of Rs. 2,86,757/- with 9% interest to the petitioner and pay all the consequential retirement benefit by adding benefit of additional increment to the petitioner.

D) Pending hearing and final disposal of this writ petition the Res. No 4 and 5 may be directed to refund recovered amount of Rs. 2,86,757/- with 9% interest to the petitioner and pay all the retirement benefit by adding benefit of additional increment to the petitioner”.

3. The Petitioner was a Class -III employee having been appointed on the post of Clerk on 11th September, 1984 by Respondent No.6. A Government Resolution dated 14th December, 2006 was introduced and the guidelines were framed for granting additional/ advance increments to those employees who are certified as having performed excellent work. On 20th July, 2007, the Petitioner was declared to have performed excellent work by an order and was granted two additional increments with effect from 1st October, 2006. The Petitioner superannuated on 31st May, 2021.

4. On 14th October, 2021, Respondent No.4 raised a query as regards the grant of additional increment to the Petitioner and directed Respondent No. 5 to carry out a re-fixation of the pay scale with effect from 1st October, 2006. In the said process, the purported excess amount paid to the Petitioner was recovered from the gratuity amount vide the decision dated 6th December, 2021. Hence, an amount of Rs. 2,86,757/- was recovered from the gratuity payment.

5. The Petitioner places reliance upon the judgments delivered by the Hon'ble Supreme Court in *Syed Abdul Qadir vs. State of Bihar and others.*¹ and *State of Punjab and others vs. Rafiq Masih (White Washer) etc.,*².

6. The learned Advocate representing Respondent Nos. 3 to 7, has received a communication addressed by Ms. Ratnamala Patil, Deputy Chief Auditor, dated 8th April, 2025, addressed to the Law and Labour Officer of the Maharashtra Jeevan Pradhikaran. A photostat copy of the compilation of three pages is placed on record, which is marked as 'X' for identification. It is informed that the

1 2009 (3) SCC 475

2 (2015) 4 SCC 334

entire amount of Rs. 2,86,757/- is redeposited in the account of the Petitioner.

7. The issue raised in this Petition is no longer *res integra*. The Petitioner is a Class -III employee who has retired from service. Recovery of purported inadvertent over payments is sought to be effected, post retirement, when the said amount was paid in July, 2007.

8. The law laid down in *Syed Abdul Qadir & Ors. (supra)* and *Rafiq Masih (White Washer) (supra)*, are squarely applicable to this case since there is neither any allegation nor has it been attributed to the conduct of the Petitioner, that he was instrumental in orchestrating the excess payment. If he was declared to be an excellent worker, he was entitled to the increments as were prescribed in law by the State Government.

9. In view of the above, **this Writ Petition is allowed in terms of prayer clause (C).** So also, the last drawn wages of the Petitioner would be properly calculated by addition of the increment to which he was entitled to and the pension amount shall also be

recalculated. This exercise should be completed, within a period of 45 days from today. Arrears of difference of pension should be paid, within a period of 45 days, thereafter.

10. Rule is made partly absolute in the above terms.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)