IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4973 OF 2025

Bharat Gajendra Hembade & Ors. … Petitioners.
Versus
The State of Maharashtra & Ors. … Respondents.

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Mr. Satish S. Raut, Advocate for the Petitioners.

Mr. Abhijeet Naik, AGP for Respondent Nos. 1 and 2/State.

Ms. Priyanka B. Chavan, Advocate for Respondent Nos. 3 to 5 Solapur Z.P.

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

DATE : 15th APRIL, 2025

P.C. :

1. A small issue falls for our consideration. Whether all these Petitioners, who have retired from service and are in the Class- III category, could be subjected to recovery of amounts on the ground that the said amounts were paid as travelling allowances and they were not entitled for the same. Such travelling allowance was paid from 1995 onwards till their superannuation.

2. The service details of all these Petitioners, as laid out in the Petition, are reproduced hereunder vide a ready reference chart :

Sr no	Retired Name of Kendra Pramukh	Date Of Appointment	Date Of Retirement	Date Of Superannuation	Recovery Amount Of Travelling Allowence
1	Bharat Gajendra Hembade	5/7/1985	31/5/2020	8/8/2013	19800
2	Ramchandra Janardan Patil	5/7/1985	31/5/2021	8/8/2013	19800
3	Gopinath Sadashiv Hembade	12/7/1985	31/5/2020	1/7/2015	19800
4	Hiralal Aananda Kondubgairi	8/7/1985	31/5/2022	8/8/2013	19800
5	Bhimashankar Sidram Jatkar	8/1/1986	31/5/2022	15/6/1995	19800
6	Purshottam Gemu Rathod	20/3/1989	Working	22/10/2008	19800
7	Ishwar Dhondiba Bhosale	9/1/1986	31/5/203	22/6/1999	19800
8	Shivshankar Dondappa Vijapure	20/1/1984	31/7/2018	3/1/2008	19800
9	Malsidha Shivgonda Vhanmane	25/1/1984	31/7/2018	17/7/2014	-
10	Maruti Raosaheb Kangude	9/7/1985	31/5/2018	8/8/2013	-
11	Hanmant Nagappa Kore	20/1/1984	31/5/2016	3/1/2008	-
12	Anil Dattatray Salunke	5/7/1985	31/5/2016	13/8/2013	-

3. The learned Advocate for the Zilla Parishad and the learned AGP, have vehemently opposed this Petition. They submit that the money paid to the Petitioners belongs to the tax payer and, therefore, it cannot be mis-utilised. The learned Advocate for the Petitioners submits that though the money belongs to the tax payer, they are not guilty of misrepresentation or deceit or a fraud, in receiving such travelling allowance. The Zilla Parishad paid them the travelling allowance as per the approved Rules. It was for the Zilla Parishad to consider whether such Rules were applicable to the Petitioners or not. After their superannuation, as per the dates mentioned in the chart, recoveries cannot be initiated in the light of the law laid down by the Hon'ble Supreme Court in ***Syed Abdul Qadir vs. State of Bihar and others***[1] ***and State of Punjab and other vs. Rafiq Masih (White Washer) etc***.[2]

4. Considering the above and the law laid down in the judgments cited, we find that the submissions of the learned Advocate for the Petitioners are well placed. Post retirement, such amounts could not have been recovered and more so, that none of these Petitioners are alleged to have played a fraud in receiving such travelling allowance.

1 2009 (3) SCC 475
2 2 (2015) 4 SCC 334

5. In view of the above, **the Petition is allowed.**

6. Since no order was passed by the Zilla Parishad for carrying out any recovery, save and except, that the retiral benefits of the Petitioners have been withheld, we direct that the said benefits shall be released within a period of 60 days from today along with interest at the rate of 6% p.a. If the retiral benefits are not released within 60 days from today, the rate of interest would increase to 7 % p.a. and the entire interest component would be recovered from the salary of the officer, who is responsible for the delay in the disbursement of such amounts.

(ASHWIN D. BHOBE, J.) **(RAVINDRA V. GHUGE, J.)**