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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8489 OF 2025

Hemangi Pravin Mane ... Petitioner
Versus
The State of Maharashtra and ors. Respondents

Mr. G.B. Naik i/b Mr.Imtiyaz Patel, for the Petitioner.
Ms.Rupali Shinde, for the Respondent-State.

**CORAM : M.S.KARNIK AND
N.R.BORKAR, JJ.**

DATE : 15th JULY 2025

P.C. :

1. Heard learned counsel for the petitioner. The petitioner is the wife of late Pravin Mane who expired on 23/09/2023 when he was working as an Assistant Police Sub-Inspector. This petition is filed for directions to the respondents to forthwith refund the amount of Rs.1,55,997/- deposited by the petitioner with interest which the respondents asked her to deposit towards excess payment made to her husband in view of wrong fixation of pay.
2. Learned counsel for the petitioner has relied upon the decision

of this Court dated 19/11/2024 in Dayal Atmaram Malekar Vs. The State of Maharashtra in Writ Petition No. 16766 of 2024. The relevant portion of the said order reads thus.

“2. The Petitioner has 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. This Petitioner has superannuated around 9 years old. Recovery has been ordered against him, post retirement, on the ground that his pay fixation Dept was wrongly done during their service tenure. The date of retirement is set out in paragraph 4 on page 6 of the memo of the Petition. The amount recovered is also set out therein. The Petitioner was working as a Police Naik.

3. The learned AGP has opposed the Petition on instructions and submits that if, the Petitioner is 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). The Petitioner has retired as per date set out herein below :-

Sr. No.	Name	Position held at retirement	Date of Retirement	Amount recovered as excess amount (Rs.)
1.	Dayal Atmarm Malekar	Assistant Sub-Inspector	30.10.2015	97,841/-

5. 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 filing of the Petition or the date of retirement, whichever may have last occurred.”

3. Learned AGP vehemently opposed the grant of relief and raised an objection that the petitioner must approach the Maharashtra Administrative Tribunal.

4. We are inclined to allow the present petition. The petitioner is the widow of the late employee. No misrepresentation is alleged. In our opinion, it would be unfair if the amount is recovered from the petitioner. The petition is therefore allowed.
5. The respondents are directed to refund to the petitioner an amount of Rs.1,55,997/- within a period of 6 weeks from today.
6. The writ petition is disposed of. No costs.

(N.R.BORKAR, J.)

(M.S.KARNIK, J.)