**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1026 OF 2026

Shankar S/o. Pratap Pawar,
Age: 59, Occupation: Pensioner,
R/o. Gadiya Vihar Shanurwadi,
Dargah Road, Aurangabad. .... Petitioner

Versus

1. State of Maharashtra
Through Nagar Vikas Department
Mantralaya, Mumbai 4010032.

2. Commissioner Municipal Corporation,
Chh. Sambhajinagar (Aurangabad)

3. Medical Health Officer,
Chh. Sambhajinagar (Aurangabad) .... Respondents

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Ms. A.N.Ansari, Advocate for Petitioner
Mr. R.S. Wani, AGP for Respondent No.1 – State
Mr. Parth Salunke, Advocate for Respondent No.2

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**CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.**

DATED : 27 FEBRUARY, 2026

JUDGMENT [Per Smt. Vibha V. Kankanwadi, J.] :-

1. Rule. Rule is made returnable forthwith. With the consent of the parties, the petition is taken up for final disposal at the stage of admission.

2. The present petition challenges the order dated 18.01.2024 passed by Respondent No. 2, whereby recovery from the retirement benefits of the petitioner on account of not passing the MSCIT examination within time was directed.

3. It is not in dispute that the petitioner was appointed as a Multi-Purpose Worker in the Health Department by order dated 06.03.1985. He stood retired on 31.12.2023 upon attaining the age of superannuation. The petitioner was granted exemption by order dated 14.12.2023 from passing the MSCIT examination with effect from 31.12.2014, i.e., on completion of 50 years of age. However, after retirement, the petitioner was served with office order dated 18.01.2024, stating that recovery of the amount for the period from 01.01.2008 to 31.05.2015 was to be effected on the ground that he had not passed the MSCIT examination, and further stating that an excess amount of Rs. 4,83,192/- should be recovered from the petitioner’s gratuity. The petitioner states that, in fact, he had passed the MSCIT examination in 2020 and had informed the office of the same by his letter dated 07.02.2020. This fact appears not to have been taken note of. Further, the petitioner is a Class-III employee, and in view of the decisions of the Apex Court as well as this Court, recovery of the excess amount cannot be ordered from the retiral benefits.

4. Heard the learned advocate for the petitioner. Learned AGP waives for respondent No.1-State and learned advocate Mr. Parth Salunke waives for respondent No.2.

5. The learned advocate for the petitioner, after taking us through the documents on record, placed reliance on the decision in Writ Petition No. 2166 of 2025 (***Bhimbrao Jadhavrao Patil vs. The State of Maharashtra and others, with companion matters, decided on 18.06.2025***), whereby the petitions were allowed in view of the decision in Writ Petition No. 6763 of 2023 (***Kahn Almas Zohara d/o. Gulam Ahmed Khan vs. The State of Maharashtra and others, decided on 09.02.2024***). Reliance was also placed on the decisions in ***Sayyed Abdul Qadir vs. State of Bhihar***, in 2009 (3) SCC 475 and **State of Punjab & Others vs. Rafiq Masih (White Washer) and others**, 2015 (4) SCC 334.

6. Here, it is to be noted that the petitioner is relying on his communication dated 07.02.2020, wherein he has stated that, for some reason, he could not complete the course of MSCIT, but now, i.e., on 05.02.2020, he has passed the said examination, and therefore, entry of the same be taken in the service book. In fact, as per the Government Resolution dated 02.09.2003, the Government had made the said

course of MSCIT, i.e., the Computer Course, compulsory and had given time to the employees to appear for the examination. It also prescribed that if they failed to clear it, then they would not be entitled to the increment. Later on, the duration to pass the said MSCIT examination came to be extended from time to time, but it could not have been beyond 2006 as per the extended time in the Government Resolution. The petitioner appears to have passed the course in 2020, and therefore, respondent No. 2 appears to have later realized that granting exemption upon the petitioner attaining the age of 50 years was incorrect, and thereafter recovery was initiated.

7. Here, it is to be noted that the order granting exemption came to be passed on 14.12.2023, having retrospective effect, i.e., with effect from 31.12.2024; however, the petitioner stood retired on 31.12.2023. The said order granting exemption was never recalled by respondent No. 2. It is not in dispute that the petitioner is a Class-III employee and that recovery has been ordered after his superannuation. Therefore, the ratio laid down in ***Sayyed Abdul Qadir*** (supra), **Rafiq Masih** (supra), as well as ***Khan Almas Zohara*** (supra) and ***Bhimrao Jadhavrao Patil*** (supra), would apply. Accordingly, the petition stands allowed.

8. The impugned order dated 18.01.2024 passed by respondent No.2, directing recovery stands quashed and set aside.

9. If the amount has been recovered from the petitioner, the same shall be refunded along with interest at the rate of 6% per annum within a period of ninety (90) days.

10. If all other consequential retirement benefits have not been paid, they shall be paid to the petitioner along with interest at the rate of 6% per annum for the delayed payment, save and except the gratuity amount, which shall carry the statutory interest component at the rate of 10% per annum.

11. Rule is made absolute in above terms. No order as to costs.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

S P Rane