IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12822 OF 2026

Dr. Lata Shankar Vasnani,]
Medical Officer, ESIS Hospital, Mumbai] .. Petitioner

Versus

1. The State of Maharashtra,]
   Through General Administration Department]

2. The Secretary,]
   Public Health Department,]
   Government of Maharashtra]

3. The Accounts Officer,]
   Pay Verification Department,]
   Directorate of Accounts and Treasury,]
   Konkan, Mumbai]

4. The Commissioner,]
   State Employees' Insurance Scheme, Mumbai]

5. The Medical Superintendent,]
   E.S.I.S. Hospital, Mumbai] .. Respondents

Mr. Abhijeet A. Desai with Ms. Mohini A. Desai (Rehpade), Mr. Vijay P. Singh, Ms. Daksha M. Punghera and Mr. Deepesh Ramrakhiani, Advocates, i/by Desai Legal LLP, for the Petitioner.

Ms. Kavita N. Solunke, Additional Government Pleader with Smt. R.M. Shinde, Assistant Government Pleader for the Respondent-State of Maharashtra.

CORAM : SUMAN SHYAM &
GAUTAM A. ANKHAD, JJ.

DATE : 7th October, 2026.

P.C. :

1. The Petitioner herein, who is due to retire from service on attaining the age of superannuation with effect from 31st December,

2026, had approached the learned Maharashtra Administrative Tribunal (MAT), Mumbai Bench by filing Original Application No.851 of 2026 assailing the "Objection Memos" dated 10th June, 2026 and 8th July, 2026 issued by the Accounts Officer (Pay Verification Unit, Konkan) issuing advisory for recovery of the excess payment made to the Petitioner on the ground that she was not entitled to receive the same as the Petitioner had failed to pass Marathi language examination within the period prescribed by the Government Decision dated 30th December, 1987. In the Original Application, the writ Petitioner had also made a prayer for interim relief, directing stay of any further action towards recovery of the excess amount. However, the learned Tribunal was of the view that since no action for recovery had yet been initiated on the basis of the "Objection Memos" of the Pay Verification Unit, the Original Application was premature. Consequently, by the impugned order dated 5th August, 2026, not only was the interim relief declined but, taking note of the submissions of the learned counsel for the Original Applicant, which need not be recorded in this order, the Original Application itself was dismissed in *limine*.

2. Assailing the order dated 5th August, 2026, Mr. Abhijeet Desai, learned counsel for the Petitioner has argued that in view of the law laid down by the Hon'ble Supreme Court in the case of ***State of Punjab and***

Ors. Vs. Rafiq Masih (White Washer) and Ors.[1], more particularly the observations made in paragraph 18(ii), no recovery of any excess amount is permissible from an employee who is due to retire within one year. Mr. Desai has further argued that with a view to implement the decision of the Hon'ble Supreme Court in the case of ***Rafiq Masih***, the Government of Maharashtra (Finance Department) has also issued Government Resolution dated 17th August, 2023 bearing No.Pension-1018/C.R. 34/Service-3 whereby, it has been categorically laid down that any decision to go for recovery of excess amount must be in consonance with the decision of the Hon'ble Supreme Court. As such, submits Mr. Desai, the learned MAT has committed manifest illegality in rejecting the prayer for interim relief as well as final relief in the Original Application.

3. Ms. Kavita Solunke, learned Additional Government Pleader, on the other hand, has submitted that the Objection Memos are the letters of advisory and the Department is yet to initiate any action in the matter on the basis of such Memos. As such, the learned Tribunal has rightly held that the Original Application was premature. Such order of the learned Tribunal, therefore, does not call for any interference by this Court.

4. After examining the material on record, we find that although there are Objection Memos issued by the Accounts Officer proposing

1 (2015) 4 SCC 334

recovery of excess amount from the Petitioner; yet, there is no order issued by the Administrative Department to such effect nor is there any move to recover the amount from the Petitioner. It is no doubt correct that in case of excess payment, there may be recovery of the same from the employee. However, for making such recovery, the procedure laid down in the Government Resolution as well as the principles formulated in paragraph 18 of the decision of the ***Rafiq Masih*** must be adhered to. Since no action of recovery from the Petitioner has admittedly been initiated till now, it would not be possible for this Court to make any further observation in the matter at this point of time. In such view of the matter, we are of the opinion that if the Department chooses to take any further action for recovery of the excess amount, the Petitioner must be given an opportunity to present her case.

5. Therefore, without interfering with the impugned order of the learned Tribunal, we dispose of this Writ Petition by providing that if any further action is initiated by the Department for recovery of the excess amount from the Petitioner, in that event a prior show cause notice, giving at least three weeks time, shall be served upon her and the Petitioner shall be heard in the matter before any effective order is passed thereon.

6. Needless to mention herein that while considering the

representation of the Petitioner, if any, the Authorities would bear in mind the law laid down by the Hon'ble Supreme Court in the case of ***Rafiq Masih*** as well as the norms prescribed by the Government Resolution dated 17th August, 2023.

7. **Writ Petition stands disposed of**.

[GAUTAM A. ANKHAD, J.] **[SUMAN SHYAM, J.]**

SNEHA ABHAY DIXIT
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Date: 2026.10.08 18:17:40 +0530