

ORIGINAL APPLICATION NO.123/2021
(Gaurishankar Swami Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 05.05.2021

ORAL ORDER :

Heard Shri K.G.Salunke, learned Advocate for the applicant, Shri M.S.Mahajan, learned Chief Presenting Officer for the respondents.

2. Record shows that the pleadings are complete.
3. Learned CPO seeks a week's time calling for the original record.
4. S.O. 12-05-2021.

MEMBER (J)

ORIGINAL APPLICATION NO.164/2020
(Hemant Chhajer Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 05.05.2021

ORAL ORDER :

Heard Shri A.M.Hajare, learned Advocate for the applicant and Shri M.S. Mahajain, learned Chief Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 17.06.2021.

3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

4. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal

(Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 17.06.2021.

8. Steno copy and Hamdast is allowed to both parties.

MEMBER (J)

ORIGINAL APPLICATION NO.196/2021
(Sandip More Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 05.05.2021

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned Advocate for the applicant and Shri M.S. Mahajajn, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that second appeal preferred by him against the first appeal order in respect of the invalidity of the Sports Certificate is pending before the authority of Commissioner of Sports, Pune. He submits that stay application made by him is pending. Second appeal is pending for hearing before the said authority on 07-05-2021.

3. In view of this, S.O. to 11-05-2021.

MEMBER (J)

M.A.NO.106/2021 IN O.A.ST.NO.466/2021
(Ganesh Jaybhaye & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

[This matter is placed before the Single Bench
due to non-availability of Division Bench.]

DATE : 05.05.2021

ORAL ORDER :

Heard Shri S.D.Dhongde, learned Advocate for the applicant and Shri S.K.Shirse, learned Presenting Officer for the respondents.

2. By this application, the applicants are seeking permission to sue the respondents jointly. It is contention of the applicants that they are serving under the respondent authority as Kotwal. They all are having common grievance against the impugned order dated 06-04-2021 fixing seniority of the post of Kotwal in District Hingoli. The cause of action being identical against the same respondents and relief claimed is similar in nature, the applicants seek leave of the Tribunal to sue the respondents jointly.

3. Accordingly, it reveals that the cause of action is identical and reliefs claimed are of similar nature. Hence, the applicants are allowed to sue the respondents jointly. Hence, the M.A. stands disposed of accordingly with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION ST. NO.466/2021
(Ganesh Jaybhaye & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 05.05.2021

ORAL ORDER :

Heard Shri S.D.Dhongde, learned Advocate for the applicants and Shri S.K.Shirse, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 18.06.2021.

3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

4. Applicants are authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal

(Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicants are directed to file affidavit of compliance and notice.

7. S.O. to 18.06.2021.

8. Steno copy and Hamdast is allowed to both parties.

MEMBER (J)

M.A.NO.60/2021 IN O.A.NO.85/2021
(Dr. Balaji Shinde Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

[This matter is placed before the Single Bench
due to non-availability of Division Bench.]

DATE : 05.05.2021

ORAL ORDER :

Heard Shri V.B.Wagh, learned Advocate for the applicant and Shri V.R.Bhumkar, learned Presenting Officer for the respondents.

2. On the request of learned P.O. adjournment is granted for filing affidavit in reply on behalf of the respondents.

3. S.O. to 17-06-2021.

MEMBER (J)

ORIGINAL APPLICATION NO.140/2021
(Vishnu Misal Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 05.05.2021

ORAL ORDER :

Heard Shri R.D.Khadap, learned Advocate for the applicant and Shri M.S.Mahajan, learned Chief Presenting Officer for the respondents.

2. Issue fresh notices to the respondents, returnable on 28.05.2021.

3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

4. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 28.05.2021.

8. Steno copy and Hamdast is allowed to both parties.

MEMBER (J)

ORIGINAL APPLICATION NO.189/2021
(Sakharam Kashid Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 05.05.2021

ORAL ORDER :

Heard Shri A.S.Khedkar, learned Advocate for the applicant and Shri D.R.Patil, learned Presenting Officer for the respondents.

2. The Original Application is filed for quashing and setting aside the office order No.311/2020 dated 23-12-2020 issued by the respondent no.3 whereby an amount of Rs.7891/- is ordered to be deducted from the monthly salary of the applicant w.e.f. 01-01-2021.

3. The applicant is working as a Chaukidar falling under Group-D. The applicant is seeking stay to the execution and implementation of the impugned order contending that the recovery is occasioned due to mistake occurred by the department while fixing the pay. While fixing the revised pay, said mistake is sought to be corrected resulted into recovery.

4. Learned Advocate for the applicant relies upon the case law of the Hon'ble Supreme Court i.e. the decision dated 18-12-2014 passed in Civil Appeal

No.11527/2014 in the matter of **State of Punjab & Ors. V/s. Rafiq Masih (White Washer) etc.** In paragraph 12 of the said judgment, it is laid down as under:

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group ‘C’ and Group ‘D’ service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employees, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

5. Considering the facts and circumstances of the case, it is evident that prima facie case of the applicant falls under Clause-I of paragraph-12 of the abovesaid case law. In view of the same, this is a fit case to grant interim stay to the execution and implementation of the impugned order. Hence, interim stay is granted to

the execution and implementation of the impugned order till filing of reply.

6. Issue notices to the respondents, returnable on 21.06.2021.

7. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

8. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

9. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

10. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in

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O.A.NO.189/2021

the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

11. S.O. to 21.06.2021.

12. Steno copy and Hamdast is allowed to both parties.

MEMBER (J)

YUK ORAL ORDERS 05.05.2021

**M.A. 69/2021 WITH M.A. 49/2021 IN O.A. 111/2020
(Rajendra S. Buwa Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 5.5.2021

ORAL ORDER :

Heard Shri Anand S. Deshpande, learned Advocate for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. By filing M.A. No. 69/2021 the applicant is seeking to condone delay caused for filing M.A. No. 49/2021 for restoration of O.A. No. 111/2020.

3. The applicant filed O.A. No. 111/2020 challenging the order dated 22.02.2019 passed by the respondent No. 2 i.e. Sub Divisional Magistrate, Nandurbar, thereby cancelling the selection of the applicant to the post of Police Patil of village Saitane, Tq. & Dist. Nandurbar. The said Original Application came up for hearing before this Tribunal on 28.02.2020. On 28.02.2020 notices were ordered to be issued to the respondents, returnable on 07.04.2020. As per the said order dated 28.02.2020 learned Advocate for the applicant informed the applicant to collect the notices for handing over the

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**M.A. 69/2021 WITH M.A. 49/2021
IN O.A. 111/2020**

same to the respondents. Learned Advocate for the applicant submits that due to Covid-19 situation no further steps could be taken in time. In view of the same, the Original Application preferred by the applicant came to be dismissed in default in view of observations made by this Tribunal in paragraph No. 7 of the order dated 28.02.2020.

4. M.A. No. 49/2021 has already been filed by the applicant for restoration of O.A. No. 111/2020 and prayer for condonation of delay was also made therein. However, thereafter the separate application for condonation of delay was made. There is delay of 306 days for filing restoration application. The said delay was caused due to ongoing Covid-19 situation.

5. Learned Advocate for the applicant submits that Hon'ble Apex Court in Suo Motu Writ Petition No. 3 of 2020 on 23.03.2020 was pleased to issue directions that the limitation period for filing the proceedings before any Court or Tribunal is extended from 15.03.2020 till further orders. The order of deemed dismissal of O.A. No. 111/2020 is dated 07.04.2020.

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**M.A. 69/2021 WITH M.A. 49/2021
IN O.A. 111/2020**

6. In view of the above, this is a fit case to codone delay, as well as, to restore the O.A. No. 111/2020 setting aside the deemed order of dismissal dated 07.04.2020.

7. In view of the above, M.A. Nos. 69 & 49 both of 2021 are allowed. Consequently, deemed order of dismissal dated 07.04.2020 is set aside and O.A. No. 111/2020 is restored to the file under its original number.

MEMBER (J)

**ORIGINAL APPLICATION NO. 111 OF 2020
(Rajendra S. Buwa Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 5.5.2021

ORAL ORDER :

Heard Shri Anand S. Deshpande, learned Advocate for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Today, M.A. Nos. 69 & 49 both of 2021 are allowed by the common order and the present O.A. is restored to its original number.

3. Issue notices to the respondents, returnable on 05.07.2021.

4. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

5. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure)

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O. A. NO. 111 OF 2020

Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

8. S.O. to 05.07.2021.

9. Steno copy and Hamdast is allowed to both parties.

MEMBER (J)

**ORIGINAL APPLICATION NO. 258 OF 2020
(Atul P. Bhangе Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 5.5.2021

ORAL ORDER :5

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. S.O. to 11.05.2021 for passing final order.

MEMBER (J)

ORAL ORDERS 5.5.2021-HDD

ORIGINAL APPLICATION NO. 190/2021
(Pratibha M. Bankar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 5.5.2021

ORAL ORDER :

Heard Shri Rahul M. Jade, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 18.6.2021.

3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

4. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and

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O.A. NO. 190/2021

produced along - -with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 18.6.2021.
8. Steno copy and Hamdast is allowed to both parties.

MEMBER (J)

M.A. NO. 104/2021 IN O.A. NO. 181/2021
(Ravindra B. Kanade Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 5.5.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. By this Misc. Application No. 104/2021 the applicant is seeking amendment in O.A. No. 181/2021.

3. In O.A. the applicant has challenged the order dated 5.4.2021 issued by the respondent no. 1 withdrawing his charge of the post of District Malaria Officer, Ahmednagar and handing over the said charge to the respondent no. 3 – Dr. Dadasaheb W. Salunke. Learned Advocate for the applicant submits that Government Resolutions dated 23.5.2006 and 27.12.2011 would be relevant for proper adjudication of the O.A.

4. Considering the facts and circumstances of the present case, in my opinion, the proposed amendment would be necessary to adjudicate the controversy between the parties effectively. Hence, leave as prayed for by the applicant to amend the O.A. is granted. Applicant to carry out amendment in the O.A. forthwith and supply amended copy of O.A. to the other side.

5. Accordingly, the present M.A. stands disposed of with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION NO. 181/2021
(Ravindra B. Kanade Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 5.5.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 21.6.2021.

3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

4. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and

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O.A. NO. 181/2021

produced along - -with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 21.6.2021.

8. Steno copy and Hamdast is allowed to both parties.

MEMBER (J)

**M.A. ST. NO. 212/2021 IN O.A. ST. NO. 213/2021
(Deepak B. Aher & Ors. Vs. State of Maharashtra & Ors.)**

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 5.5.2021

ORAL ORDER :

Heard Shri S.B. Solanke, learned Advocate for the applicants and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicants seeks leave of this Tribunal to withdraw this Misc Application. Leave as sought for is granted.

3. Accordingly, the present Misc. Application stands disposed of as withdrawn with no order as to costs.

MEMBER (J)

ORIGINAL APPLICATION ST. NO. 213/2021
(Deepak B. Aher & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 5.5.2021

ORAL ORDER :

Heard Shri S.B. Solanke, learned Advocate for the applicants and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicants seeks leave of this Tribunal to withdraw the present Original Application so far as applicant Nos. 2 to 5. Learned Advocate for the applicants submits that he wants to proceed with the present O.A. only for applicant no. 1. He further seeks liberty of this Tribunal for the applicant nos. 2 to 5 to pursue their claim before the appropriate forum.

3. In the above circumstances, the present O.A. stands disposed of as withdrawn, so far as applicant nos. 2 to 5 are concerned. There shall be no order as to costs.

4. In view of above, now the present O.A. to proceed in respect of applicant No. 1 only. So also the applicant nos. 2 to 5 are at liberty to pursue their claim before the appropriate forum.

5. Issue notices to the respondents, returnable on 2.7.2021.

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O.A. ST. NO. 213/2021

6. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

7. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

8. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

9. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

10. S.O. to 2.7.2021.

11. Steno copy and Hamdast is allowed to both parties.

MEMBER (J)

ORIGINAL APPLICATION NO. 459/2020
(Priti J. Patale Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 5.5.2021

ORAL ORDER :

Heard Shri Amit S. Savale, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Learned Presenting Officer for the respondents seeks time for filing affidavit in reply of the respondents. Learned Advocate for the applicant objected for granting adjournment to the respondents stating that since last three dates, adjournments have been sought by the respondents for filing affidavit in reply.

3. Learned Presenting Officer submits that she has received the para-wise remarks from the concerned respondents and on the next date she would file affidavit in reply of the concerned respondents positively.

4. In view of above, last chance is granted to the learned Presenting Officer to file affidavit in reply of the concerned respondents.

5. S.O. to 23.6.2021 for filing affidavit in reply by the respondents.

MEMBER (J)

ORIGINAL APPLICATION NO. 186/2021
(Namdeo A. Fad Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 5.5.2021

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. The applicant has filed the present Original Application for quashment of the impugned pay fixation order dated 6/7.4.2021 issued by the respondent no. 3 to the extent of directing recovery of excess payment from the applicant. The applicant is working as a Assistant Sub Inspector and presently is working under the respondent No. 3 in Beed District.

3. Learned Advocate for the applicant relies upon the decision of the Hon'ble Supreme Court in **Civil Appeal No. 11527/2014 arising out of S.L.P. (C) No. 11684/2012 & Ors. (State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.)** reported at **AIR 2015 SC 596** delivered on 18.12.2014. More particularly he relies upon para 12 of the said decision, which reads as under :-

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been

made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law :

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employees, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

4. Learned Advocate for the applicant submits that the applicant is belonging to Class-III / Group – C category. Hence, his case falls under para 12 of the aforesaid decision of the Hon'ble Supreme Court.

5. Learned Presenting Officer for the respondents submits that by the impugned order, in fact, no recovery is ordered against the applicant and only recovery is contemplated.

6. However, considering the facts and circumstances of the present case, it is evident that the present O.A. is filed by the applicant apprehending recovery in view of impugned pay fixation order. The said order also speaks of contemplation of recovery of excess payment, if any, made to the applicant. The facts of the present case would certainly fall under the ratio laid down by the Hon'ble Supreme Court in case of **(State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.)** (supra).

7. In view of above, I am of the opinion that this is a fit case to grant interim stay to the recovery, if any, from the salary of the applicant as per the impugned order dated 6/7.4.2021 issued by the respondent no. 3, till filing of the affidavit in reply by the respondents. Hence, ordered accordingly.

8. At the request of learned Presenting Officer, S.O. to 2.7.2021 for filing affidavit in reply by the respondents.

MEMBER (J)

ORIGINAL APPLICATION NO. 118/2021

(Smt. Sunanda d/o Asaram Pagare @ Smt. Sunanda w/o John Sable Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 5.5.2021

ORAL ORDER :

Heard Ms. Preeti Wankhade, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that only period of 9 months is left for retirement of the applicant. After passing of the impugned order dated 31.7.2020 regarding transfer of the applicant from Aurangabad to Mumbai issued by the respondent no. 2, the applicant has joined there. The applicant thereafter made representation dated 21.9.2020 (Annex. A. 6 paper book page 36 of O.A.) either for cancellation of the said transfer order or for sending her at Aurangabad on deputation. It is the contention of the applicant that the respondent no. 2 has recommended favourably, but her said representation is still pending with the Government.

3. Learned Presenting Officer seeks time for filing affidavit in reply. He submits that para-wise remarks are received to him and he would positively file affidavit in reply of the concerned respondents on the next date.

4. In the circumstances, S.O. to 12.5.2021 for filing affidavit in reply by the concerned respondents.

MEMBER (J)