

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**ORIGINAL APPLICATION NO.1073 OF 2017  
(Subject : Recovery)**

Shri Ramdaras S. Prasad )  
Add : Sai Raj Building, A-1 Bhopar Road, )  
Dombivali (E), Mumbai 421 201 )

**....Applicant.**

**Versus**

1. The State of Maharashtra, )  
Through the Secretary, )  
Home Department, )  
Mantralaya, Mumbai 400 032. )

2. Deputy Commissioner of Police, )  
Railway, Central Zone, )  
Byculla Signal Building, Mumbai. )

3. Accounts Officer, )  
Pay Verification Unit, )  
Office of Director, Accounts & Treasuries, )  
Mumbai. )

4. Commissioner of Police (Railways), )  
Area Manager Building, 4<sup>th</sup> floor, )  
P Demello Road, Wadi Bandar, )  
Mumbai 400 010 )

**.....Respondents.**

Shri C.T. Chandratre, the learned Advocate for the Applicant.

Ms. S. Suryawanshi, the learned Presenting Officer for the Respondents.

CORAM : Justice Shri M.T. Joshi, Vice-Chairman

DATE : 03.10.2018.

**J U D G M E N T**

1. Heard Shri C.T. Chandratre, the learned Advocate for the Applicant and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

2. Heard both sides. By the present application, Applicant has prayed for following reliefs :-

a) *The Hon. Tribunal be pleased to call for the record and proceedings of the order dated 28.07.2017 issued by Respondents No.2 through Senior P.I., Panvel Railway Police Station, Panvel and order dated 01.11.2017 issued by Respondents No.4, after examination its legality and validity the Hon. Tribunal be pleased to hold and declared that the orders are illegal and unjustified and by suitable order the same may please be quashed and set aside.*

b) *The Hon. Tribunal further be pleased to restrain the Respondents permanently from making any recovery from the Applicant and direct them to conduct themselves as if impugned orders were never in existence with further directions to refund the amount recovered from the applicant within 04 weeks from the date of the order of this Hon. Tribunal.*

3. Submissions of both sides would show that present applicant was granted increment during his service period, though he did not pass examination of Marathi language as per the rules within prescribed period. After prescribed period the applicant has passed the Marathi language examination.

4. However, issue remained regarding the mistaken release of the increment of the said period. Therefore the impugned recovery order dated 28.07.2017 (copy whereof is at page 10, A-1) came to be passed by the concerned respondents, therefore present Original Application.

5. Submission from both sides shows that the similar exercise was taken by the respondents regarding other employees in the cadre of the present applicant and common result sheet is found (copy whereof is at page 18, A-3).

6. Recovery order was also directed to be issued against three of those employees. Against the said order, they have preferred different Original Applications which were decided by this Tribunal.

7. We have the decision in O.A.No.840 & 841 of 2016, filed by Shri Subhash R. Kanojiya & Shri Shirjuddin B. Bagsiraj (resp.) Versus State of Maharashtra & Ors. dated 31.01.2017 (copy whereof is from page 26) and in O.A.No.431 of 2017, filed by Shri Yamanppa R. Konnur Versus The State of Maharashtra & Ors. dated 21.07.2017 (copy whereof is from page 37). The decision would show that the orders of recovery were quashed wherein reliance was placed on upon the judgment in the matter of **State of Punjab and others Vs. Rafiq Masih : (2015) 4 SCC 334 (White Washer)**, seen at page 46.

8. In that view of the matter similar order is being passed in present Original Application. Original Application is allowed without any order as to costs. The impugned decision of the respondents at page 10 can be quashed and set aside.

9. Respondents are directed not to recover amount from the applicant, and if recovery is already made the same shall be refunded to the Applicant within a period of four months from the date of this order.

Sd/-

**(M.T. Joshi, J.)**  
**Vice-Chairman**

prk