

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 505 OF 2016  
(Subject – Recovery)**

**DISTRICT: AURANGABAD**

**Smt. Manjula w/o Ashok Suralkar,** )  
Age: 61 years, Occu. : Retired, )  
R/o N-4, B-21, CIDCO, Aurangabad. ) .. **APPLICANT**

**V E R S U S**

- 1) **The State of Maharashtra,** )  
Through the Secretary, )  
Higher and Technical Education )  
Department, Mantralaya Annexe, )  
Mumbai- 400 032. )
- 2) **The Director,** )  
Director of Technical Education, )  
3, Mahapalika Marg, Post Box )  
No. 1967, Mumbai – 400 001. )
- 3) **The Joint Director,** )  
Office of Divisional Technical )  
Education, Osmanpura, Post Box )  
No. 516, Aurangabad 431 005 )
- 4) **The Principal,** )  
Kamala Nehru Polytechnic )  
(Pharmacy) Aurangabad, )  
Dr. Rafiq Zakaria Campus, )  
Post Box No. 65, Dr. Rafiq )  
Zakaria Marg, Rauza Bagh, )  
Aurangabad – 431 001. ) .. **RESPONDENTS**

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**APPEARANCE** : Shri N.K. Tungar, Advocate for the Applicant.

: Shri S.K. Shirse, Presenting Officer for the  
Respondent Nos. 1 to 3.

: Shri K.N. Farooqui, Advocate for the respondent  
No. 4.

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**CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)**  
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**ORDER****(Delivered on this 25<sup>th</sup> day of September, 2017.)**

1. The applicant has challenged the communication dated 8.1.2016 issued by the respondent No. 2 directing the respondent No. 4 to recover the excess amount of salary paid to her by cancelling the increment granted to her w.e.f. 1.9.2009 on passing M. Pharm examination and the communication dated 28.01.2016 issued by the respondent no. 4 directing the recovery of an amount of Rs. 4,07,844/- from her on the basis of letter dated 8.1.2016 by filing the present Original Application.

2. The applicant was Bachelor of Pharmacy. The Kamla Nehru College of Pharmacy Aurangabad is run by Maulana Azad Education Society, Aurangabad and it is Government aided institute. On 26.09.1978, the applicant made an application to the Secretary, Maulana Azad Education Society, Aurangabad for appointing her as Assistant Lecturer. On considering her application, the Management of the Maulana Azad Education Society, Aurangabad appointed her as Assistant Lecturer on probation at Kamla Nehru College of Pharmacy Aurangabad by its order dated 26.09.1978 w.e.f. 2.10.1978. On 29.07.1982, the Management of the Maulana Azad Education Society, Aurangabad granted sanction for confirmation of applicant on the post of Assistant Lecturer. The post of the applicant was upgraded as

Lecturer w.e.f. 2.10.1979. The applicant thereafter made an application seeking permission to take admission for the course of Master in Pharmacy. The respondent No. 2 on 27.08.2004 granted permission to the applicant to join the course. Thereafter, the applicant completed Master's degree in pharmacy in the examination conducted in April 2006. She obtained degree certificate in convocation ceremony held on 24.03.2007. The applicant was awarded one additional increment as per routine procedure. Accordingly, she received pay from time to time. After completion of her service, she retired on 30.09.2015. The respondent No. 4 forwarded revised proposal of her pension as per points raised by the respondent No. 2. On 8.1.2016, the respondent No. 2 raised some queries and stated that the applicant was awarded with one additional excess increment on account of her M. Pharm degree w.e.f. 1.9.2009. It is further mentioned in the letter that as per letter dated 1.3.2007, the additional increment was cancelled and therefore, directed to recover the alleged excess payment made to the applicant by issuing letter dated 8.1.2016. In pursuance of the said letter, the respondent No. 4 issued letter /order to the applicant dated 28.01.2016 and directed to deposit an amount of Rs. 4,07,844/- in the Government Treasury towards the excess payment made to her. On receiving the said letter, the applicant has filed detailed representation to the respondent Nos. 3 and 4 on 2.2.2016 and

raised objection for recovery of alleged excess payment by relaying on the judgments of the Hon'ble High Court and Hon'ble Supreme Court.

3. On 17.03.2016, the respondent No. 3 sent a letter to the respondent No. 2 stating that the applicant was not ready to refund the amount of excess payment made to her. The respondent No. 2 had not forwarded the proposal of the applicant's retiral benefits to the competent authority i.e. the Accountant General-II, Nagpur for necessary action till today and thereby deprived of her right to claim retirement benefit including pension and gratuity.

4. It is contention of the applicant that on completion of master's degree in Pharmacy by her, the proposal was forwarded by the respondent No. 4 to grant additional increment to her. The said proposal was duly scrutinized in view of the G.R. dated 20.08.2010 and thereafter, it was forwarded to Regional Office at Aurangabad i.e. the respondent No. 3. The respondent No. 3 had scrutinized the same and forwarded the same to the respondent No. 2 and the respondent No. 2 thereafter approved the said proposal and accordingly, increment has been released to her. It is her contention that she was awarded with one additional increment on the basis of G.R. dated 20.8.2010 as well as the directions issued by the respondent No. 2 by his letter dated

17.09.2010. It is her contention that there was no fraud, misrepresentation or error on her part in getting the additional increment on passing M. Pharm examination.

5. It is her contention that the alleged recovery of excess amount paid to her was directed after her retirement. The said recovery is against the guidelines given by the Hon'ble Apex Court in case of **State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc. reported in 2015 (4) SCC 334**. The said recovery is not permissible and therefore, she prayed to allow the present Original Application and to quash the impugned order and to direct the respondents to forward her proposal regarding pension and other consequential benefits to the concerned authorities.

6. The respondent Nos. 1 to 3 have filed there affidavit in reply and resisted the contentions of the applicant. They have not denied about the date of appointment of the applicant, up gradation or passing of her M. Pharm examination and extending benefit of giving one additional increment to her on passing her M. Pharm examination. It is their contention that as per G.R. dated 26.05.1992, the lecturer who acquires post-graduation in service shall not be eligible for advance increment. Director of Technical Education, Maharashtra State was declared as a Competent Authority for Grand -In- Aid institutes in view of the

G.R. of the year 1985 and accordingly, the Director of Technical Education had taken decision in this regard and issued guidelines vide letter dated 1.3.2007 to all the heads of the institute. It has been specifically mentioned in the said letter that the lecturer possessing M. Pharm qualification are not entitled for any advance increment and therefore, the excess payment made to the applicant needs to be recovered before finalization of the pension case of the applicant. It is their contention that the applicant was awarded selection grade pay scale on 2.10.1995 and awarded pay scale of Rs. 3700-125-4700-150-5300 and correspondingly fixed in pay scale of 12000-420-18300 on 1.1.1996 as per recommendation of Fifth Pay Commission. As per recommendation of the 6<sup>th</sup> Pay Commission, AICTE Scheme, the applicant furnished an undertaking and therefore, she was granted revised pay scale of Rs. 37400-67000 AGP 9000 w.e.f. 1.1.2006. Thereafter, AICTE, has issued notification dated 4.1.2016 and clarified that the advance increments for those who acquired higher qualification while in service are not allowed in the PB-4 pay scale of Rs. 37400-67000. It was also clarified that no advance increments are admissible to those who acquired higher qualification prior to 1.1.2006, while in service. It is their contention that the applicant furnished an undertaking while opting for the revised pay scale as on 1.1.2006 that she would liable to refund any excess payment made to her. In view of the

letter of AICTE dated 1.3.2007 and clarification vide notification dated 4.1.2006 issued by the AICTE, it was disclosed that the applicant received excess payment and same requires to be recovered in view of the undertaking given by her and therefore, the directions were given by issuing impugned order to recover the said amount from the applicant.

7. The respondent No. 4 filed affidavit in reply and raised the similar contention to that of the contention raised by the respondent Nos. 1 to 3.

8. I have heard Shri N.K. Tungar, Advocate for the applicant, Shri S.K. Shirse, Presenting Officer for the respondent Nos. 1 to 3 and Shri K.N. Farooqui, Advocate for respondent No. 4. I have perused the documents placed on record by the parties.

9. Admittedly, on 26.09.1978, the applicant was appointed as Assistant Lecturer on probation at Kamla Nehru College of Pharmacy Aurangabad w.e.f. 2.10.1978. Accordingly, she joined her service. She was confirmed in the service vide order dated 29.07.1982 w.e.f. 2.10.1979. Admittedly, the applicant appeared for the master's course in Pharmacy by obtaining permission from the respondent No. 2, when she was in service and she was completed master's degree in the year 2006. The degree certificate was issued to her on 24.03.2007. There is

no dispute about the fact that on passing her degree in Pharmacy, the proposal to grant one additional increment to her was sent to respondent No. 2 and accordingly, the said proposal was approved and one additional increment has been given to her on the basis of G.R. dated 20.08.2010. She received salary accordingly. Admittedly, she retired on 30.09.2015. There is no dispute about the fact that thereafter, proposal for pension and gratuity of the applicant was forwarded by the respondent No. 4 to the respondent No. 2 and at that time, the respondent No. 2 raised objections and queries and by its letter dated 8.1.2016 the respondent No. 2 informed the respondent No. 4 that additional increment granted to the applicant on account of acquiring M. Pharm degree w.e.f. 1.9.2009 was not in accordance with the Government Resolution and the additional increment was cancelled in view of the letter dated 1.3.2007. On the basis of letter dated 1.3.2007, the respondent No. 2 further directed the respondent No. 4 to recover the excess amount paid to the applicant. On the basis of said letter, the respondent No. 4 issued letter/order dated 28.01.2016 directed the applicant to deposit an amount of Rs. 4,07,844/- towards the excess payment made to her. Admittedly, the applicant was serving as a Group-A employee. There is no dispute about the fact that the applicant received additional increment on account of passing of M. Pharm examination by her, when she was in service w.e.f. 1.9.2009.



10. Learned Advocate for the applicant has submitted that the applicant was retired w.e.f. 30.09.2015. He has submitted that the impugned orders have been issued on 8.1.2016 and 28.01.2016 by the respondent Nos. 2 and 4 respectively cancelling her additional increment granted to the applicant on passing M. Pharm examination and directing recovery of an amount of Rs. 4,07,844/- towards the payment made to her on account of additional increment granted to her. He has submitted that since the applicant is retired employee, the said recovery cannot be made from her and therefore, he prayed to quash the impugned orders.

11. Learned Advocate for the Applicant has further submitted that the applicant passed M. Pharm examination in the year 2006 and she received M. Pharm degree on 24.03.2007 in convocation ceremony. He has submitted that the respondent No. 2 sent proposal for granting one additional increment to her on passing M. Pharm examination on the basis of G.R. dated 20.08.2010, as well as, letter dated 17.09.2010 issued by the respondent No. 2. He has submitted that the proposal of the respondent No. 4 was scrutinized by the respondent No. 2 and thereafter, increment was released to her w.e.f. 1.9.2009. He has submitted that the applicant never made any representation or request to grant additional increment on passing M. Pharm

examination. Proposal to grant advance increment to the applicant was sent by the respondent No. 4. There was no misrepresentation by the applicant in getting additional increment and she had not practiced fraud on the respondents. Therefore, the said recovery cannot be made from her and that too after her retirement. He has submitted that the applicant passed M. Pharm examination, which is equivalent to M. Phil examination and therefore, additional increment has been granted to her in view of the G.R. and there is no illegality in granting increment to her. Therefore, the order of respondent No. 2 cancelling the said increment is not legal one. He has further submitted that the respondents directed recovery of the amount paid to the applicant in respect of period in excess of 5 years and therefore, the said recovery is not permissible. In support of his submission, he has placed reliance on the judgment delivered by the Hon'ble Apex Court in case of **State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.** reported in **2015 (4) SCC 334**, when it is observed as follows:-

***“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, summarise***

*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.*
- (ii) Recovery from retired 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 employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employers right to recover."*

12. He has also placed reliance on the judgment delivered by the Hon'ble Supreme Court in case of **Syed Abdul Qadir & Ors. Vs. State of Bihar & Ors. reported in 2009 AIR (SCW) 1871**, when it is observed as follows:-

***“27. This Court, in a catena of decisions, has granted relief against recovery of excess payment of emoluments/allowances if (a) the excess amount was not paid on account of any misrepresentation or fraud on the part of the employee and (b) if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order, which is subsequently found to be erroneous. The relief against recovery is granted by courts not because of any right in the employees, but in equity, exercising judicial discretion to relieve the employees from the hardship that will be caused if recovery is ordered. But, if in a given case, it is proved that the employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where the error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, courts may, on the facts and circumstances of any particular case, order for recovery of the amount paid in excess. See Sahib Ram vs. State of Haryana, 1995 Supp. (1) SCC 18, Shyam Babu Verma vs. Union of India , [1994] 2 SCC 521; Union of India vs. M. Bhaskar , [1996] 4 SCC 416; V. Ganga Ram vs. Regional Jt., Director, [1997] 6 SCC 139; Col. B.J. Akkara [Retd.] vs. Government of India & Ors . (2006) 11 SCC 709; Purshottam Lal Das & Ors ., vs. State of Bihar, [2006] 11 SCC 492; Punjab National Bank & Ors. Vs. Manjeet Singh &***

**Anr. , [2006] 8 SCC 647; and Bihar State Electricity Board & Anr . Vs. Bijay Bahadur & Anr ., [2000] 10 SCC 99.**

**28. Undoubtedly, the excess amount that has been paid to the appellants – teachers was not because of any misrepresentation or fraud on their part and the appellants also had no knowledge that the amount that was being paid to them was more than what they were entitled to. It would not be out of place to mention here that the Finance Department had, in its counter affidavit, admitted that it was a bona fide mistake on their part. The excess payment made was the result of wrong interpretation of the rule that was applicable to them, for which the appellants cannot be held responsible. Rather, the whole confusion was because of inaction, negligence and carelessness of the officials concerned of the Government of Bihar. Learned counsel appearing on behalf of the appellants-teachers submitted that majority of the beneficiaries have either retired or are on the verge of it. Keeping in view the peculiar facts and circumstances of the case at hand and to avoid any hardship to the appellants-teachers, we are of the view that no recovery of the amount that has been paid in excess to the appellants-teachers should be made.”**

Learned Advocate for the applicant has submitted that in view of the guidelines given by the Hon'ble Apex Court in the above cited decisions, the recovery directed against the applicant

cannot be made and therefore, he prayed to allow the O.A. and to quash the impugned orders.

13. Learned Advocate for the applicant has further submitted that the G.R. dated 20.08.2010 more particularly in paragraph No. 2 (D) provides that Teacher working in degree level institute are entitled to get one non-compounded advance increment on acquiring Ph.D./ M. Tech. and other higher qualification. He has submitted that the applicant has acquired M. Pharm degree, which is equivalent to M. Tech. and post-graduation degree and therefore, advance increment was granted to her. Therefore, order of respondent No. 2 withdrawing the said increment granted to her is not legal one and therefore, he prayed to quash the impugned order by allowing the Original Application.

14. Learned Advocate for the applicant has further submitted that as on today, the applicant has not received two installments of 6<sup>th</sup> Pay Commission arrears amounting to Rs. 457372/-, but the respondent Nos. 2 and 4 are illegally making recovery of excess amount paid to her, though the amount was pending with the respondents and therefore, he prayed to quash the impugned order.

15. Learned Presenting Officer has submitted that the applicant has passed M. Pharm examination. The said

examination is not equivalent to M. Phil or Ph.D. degree and therefore, the applicant was not entitled to claim one additional increment on the basis of G.R. dated 28.08.2010. He has attracted my attention towards the paragraph B 2 (D.), which provides as follows:-

**“D. Incentives for Ph.D. / M.Tech and other higher qualification for teachers and librarians working in Degree/ Diploma level institutes:**

- (i) *Five **non-compounded** advance increments shall be admissible at the entry level of recruitment to persons possessing the degree of Ph.D. **awarded in the relevant discipline** by a university following the process of registration, course-work and external evaluation as prescribed by UGC.*
- (ii) *M.Phil degree holders at the time of recruitment to the post of lecturer shall be entitled to two **non-compounded** advance increments.*
- (iii) *Those possessing Post Graduate degree in a professional course such as M.Tech. **in relevant branch / discipline** recognised by a statutory University shall also be entitled to two non-compounded advance increments at the entry level.*
- (iv) *Teachers who complete their Ph.D. degree while in service shall be entitled to three **non-compounded** increments if such Ph.D. is in the **relevant branch / discipline** and has been awarded by a university*

*complying with the process prescribed by the UGC for enrolment, course-work and evaluation etc.*

- (v) However, teachers in service who have been awarded Ph.D. at the time of coming into force of this Scheme or having been enrolled for Ph.D. have already undergone course-work, If any, as well as evaluation, and only notification in regard to the award of Ph.D. is awaited, shall also be entitled to the award of three **non-compounded** increments even If the university awarding such Ph.D. has not yet been notified.*
- (vi) Teachers in service who have not yet enrolled for Ph.D. shall therefore derive the benefit of three **non-compounded** increments on award of Ph.D, while in service only if such enrolment is with a university recognized by UGC.*
- (vii) Teachers who acquire M.Phil. degree or a M.Tech degree in a **relevant Branch/discipline** recognised by a Statutory University while in service, shall be entitled to one **non-compounded** advance increment.”*

He has submitted that the M. Pharm examination is not equivalent to M. Phil or Ph.D. Examination and therefore, the applicant was not entitled to get benefit of the said G.R., but one additional increment was wrongly given to her w.e.f. 1.9.2009. The said error had been noticed by the respondent No. 2 while considering the proposal of the pension of the applicant and that's



why the impugned order dated 8.1.2016 has been issued by the respondent No. 2 cancelling the additional increment granted to the applicant.

16. Learned Presenting Officer has further submitted that the applicant was Class-I i.e. Group-A officer and therefore, she cannot take benefit of guidelines given by the Hon'ble Apex Court in case of **State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.** reported in **2015 (4) SCC 334** and therefore, the impugned order directing the recovery of the excess amount paid to the applicant cannot be quashed.

17. Learned Presenting Officer has further submitted that the arrears of additional increment granted to the applicant were disbursed to the applicant on submitting undertaking by her. The applicant had submitted undertaking to that effect on 4.9.2010, which is at page no. 115 of the paper book. He has submitted that by giving the undertaking, the applicant admitted that any excess payment that may be found to have been made to her as a result of incorrect fixation of pay or any excess payment detected in the light of the discrepancies noticed subsequently will be refunded by her. On furnishing the undertaking arrears of the revised pay on account of additional increment was granted to her on the basis of G.R. dated 20.08.2010. The applicant has not

disputed the said fact and therefore, the applicant cannot take benefit of guidelines given by the Hon'ble Supreme Court of India, in case of **State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.** reported in **2015 (4) SCC 334.** In support of his submission he has placed reliance on the judgment of the Hon'ble Supreme Court of India, Jurisdiction in **Civil Appeal No. 3500 of 2006** in case of **High Court of Punjab and Haryana and Ors. Vs. Jagdev Singh** decided on 29.07.2016, when it is observed as follows:-

***“11 The principle enunciated in proposition (ii) above cannot apply to a situation such as in the present case. In the present case, the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. The officer furnished an undertaking while opting for the revised pay scale. He is bound by the undertaking.”***

18. Learned Presenting Officer has further submitted that the recovery was directed in view of the undertaking given by the applicant and there is no illegality in the order directing the recovery and therefore, he supported the impugned orders issued by the respondent Nos. 2 and 4 and therefore, he prayed to dismiss the Original Application.

19. On going through the documents on record it is crystal clear that the applicant passed M. Pharm degree in the year 2006. She received degree in the year 2007. She received one additional increment on the basis of G.R. dated 20.08.2010. On perusing Clause 2 (D), it reveals that one additional increment was granted to the employees holding Ph. D., M. Tech. or M. Phil degree. The said provision nowhere provides that the teachers who acquired M. Phil degree are entitled to get non compounded advance increment as provided therein. There is nothing on record to show that the M. Pharm degree is equivalent to the degree of Ph. D., M. Phil or M. Tech and other higher qualification as provided under the said G.R. This shows that the advance increment granted to the applicant in the year 2009 w.e.f. 1.9.2009 was not in accordance with the G.R. dated 20.08.2010. While receiving the benefit of the said G.R. and the amount of the additional increment granted to her, the applicant had given undertaking on 4.9.2010, which is at page no. 115 of the paper book and thereafter, action of recovery has been disbursed to the applicant. The undertaking runs as follows :-

**“UNDERTAKING**

***[As per Ministry of Finance (Department of Expenditure) order O.M. No. F. 23-7/ 2008IFD dated 23.10.2008]***

***I hereby undertake that any excess payment that may be found to have been made as a result***

***incorrect fixation of pay or any excess payment detected in the light of discrepancies noticed subsequently will be refunded by me to the Government either by adjustment against further payments due to me or otherwise.***

***Date : 4/9/10***

”

20. By the said undertaking, the applicant undertook that any excess payment that may be found to have been made as a result incorrect fixation of pay or any excess payment detected in the light of discrepancies noticed subsequently will be refunded by her to the Government. The respondent No. 2 scrutinized the proposal of pension of the applicant sent by the respondent No. 4 and that time it was noticed by the respondent No. 4 that one additional increment was granted to the applicant, though she was not entitled on passing M. Pharm examination and therefore, respondent No. 2 issued impugned order dated 8.1.2016 and cancelled the advance increment granted to the applicant and directed the respondent No. 4 to recover the amount. In pursuance of the said order, the respondent No. 4 issued order dated 28.01.2016 directing the applicant to deposit the amount of Rs. 4,07,844/- received to her towards the excess payment made. The applicant was aware about the fact that the she has to refund the amount, if the payment made to her was not in accordance with the Rules and she undertook to refund the same by giving undertaking. Therefore, she cannot take benefit of the guidelines

given by the Hon'ble Apex Court in case of **State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.** reported in **2015 (4) SCC 334**. The Hon'ble Apex Court in **Civil Appeal No. 3500 of 2006** in case of **High Court of Punjab and Haryana and Ors. Vs. Jagdev Singh** on 29.07.2016 considered the guidelines given by the Hon'ble Apex Court in case of **State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.** on 18.12.2014 reported in **2015 (4) SCC 334** and held that the said principles cannot apply to the situation, in case the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. If the officers furnishes an undertaking while opting for the revised pay scale then he is bound by the undertaking.

21. Facts of the present case are also similar to the facts in the above cited decision of Hon'ble Apex Court in case of **High Court of Punjab and Haryana and others Vs. Jagdev Singh.** Therefore, the legal principles laid down therein are squarely applicable in the instant case. In this case, the applicant furnished undertaking while opting for revised pay scale on granting advance increment. She was wrongly granted additional increment, to which she was not eligible. Therefore, excess payment made to her on account of granting additional to which

she was not entitled requires to be recovered from her and she is liable to refund it. Therefore, the principles and guidelines cited in the above cited decisions are attracted in the instant case.

22. It is also material to note that the applicant is Group-A i.e. Class-I officer. Therefore, the guidelines mentioned in case of **State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.** are not attracted in this case.

23. I have gone through the other decisions cited by learned Advocate for the applicant. The facts in those cases are different than the facts in the present case. Therefore, the said decisions are not much useful to the applicant in this case.

24. Learned Presenting Officer has placed reliance on the judgment of this Tribunal at principal seat in O.A. No. 876/2014 in case of **Dr. Suman W/o Balkrishna Saste Vs. The State of Maharashtra and Ors. delivered on 11.3.2016.** I have gone through the said decision. In the said decision also the recovery directed against the applicant towards the excess payment was challenged. The applicant was granted benefit of additional increment on account of passing Ph. D. degree. This Tribunal has observed that the applicant does not hold Ph. D. degree in the relevant subject, which is required for Assistant Professor and not holding medical degree, as per the guidelines issued by the Indian

Medical Council and therefore, recovery was directed. This Tribunal found that the order was legal and consequently, dismissed the Original Application. The said decision is appropriately applicable in this case.

25. Considering the above said discussion, the recovery directed by the respondent No. 2 against the applicant is legal. There is no illegality in the impugned orders issued by the respondent Nos. 2 and 4 respectively. Therefore, no interference is called for in the impugned orders. I do not find merit in the Original Application. Consequently, it deserves to be dismissed.

25. In view of the above facts and circumstance, the Original Application is dismissed. The Respondents are directed to process the pension papers of the applicant on recovery of the excess payment made to the applicant.

There shall be no order as to costs.

**(B.P. PATIL)**  
**MEMBER (J)**