

O.A.No.408/2022 (S.B.) (P.M. Chavan Vs. State of Mah. & Ors.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri B. Chandrakapure, learned counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. The learned counsel for the applicant pointed out the letter dated 04/01/2022 issued by the Additional Principal Chief Conservator of Forest, Nagpur in which he has given directions to all the concerned to follow the Judgment of Hon'ble Apex Court in the case **of State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer)**.

3. The learned counsel has pointed out the objection raised by the Pay Verification Unit. He has also submitted that the respondents / authority may recover the excess amount paid to the applicant. The applicant retired on 30/04/2019. He was working as a Ranger Surveyor which is Class-III post. The learned counsel has pointed out the Judgment in case of **of State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer)**, more particularly, para-12 which is reproduced as below –

"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.*
- (iii) Recovery from 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 employer's right to recover."

4. Heard Shri S.A. Deo, Id. CPO for the State. He has submitted that if the undertaking is given, then the department is at liberty to recover the said amount in view of Judgment of Hon'ble Apex Court in the case of **Jagdeo Singh.** In this regard on the side of respondent / authority it is necessary to show as to whether there was any undertaking given by the applicant.

5. In view of above, the respondents are directed not to recover excess amount paid to the applicant till filing of reply.

6. Issue notice to the respondents returnable **16/06/2022.** Learned C.P.O. waives notice for State. Hamdast allowed.

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

8. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is 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 acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

11. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

S.O. 16/06/2022.

Member (J).

O.A.No.471/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri A. Joshi, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. Issue notice to the respondents returnable **16/06/2022**. Learned C.P.O. waives notice for State. Hamdast allowed.

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

4. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is 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 acknowledgement be obtained and produced

along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

7. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

S.O. 16/06/2022.

Member (J).

RSM.

O.A.No.846/2021 (S.B.)

(Ku. Leena P. Patil Vs. State of Mah. & ors.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri P.S. Patil, Id. counsel for the applicant, Shri A.M. Khadatkar, Id. P.O. for R-1 to 3 and Shri S.N. Gaikwad, Id. counsel for R-4.

2. The learned counsel for the applicant has pointed out the order dated 11/04/2022. Shri Gaikwad, learned counsel submits that the respondent no.4 is transferred from Aadnadi to Gullarghat, but because of the stay order, she could not join at the transferred place.

3. The learned P.O. seeks further time. The para-2 of order of this Tribunal dated 11/4/2022 is reproduced as below –

“2. Learned counsel for the applicant states that by interim order she has continued on the same post, now process of transfer has already begun and in this process claim of the applicant be decided on it's own merits by letting her participate in the process. Learned P.O. states that on this proposal he will take instructions.”

3. The respondents are directed to allow the applicant to take participate in the process of coming general transfers of April/ May,2022 and decide the claim of the applicant and after transfer of the applicant, the respondent no.4

shall be allowed to join at the transferred place at Gullarghat. All these process/ activities shall be completed by the respondents before 13/06/2022.

S.O. 13/06/2022.

Steno copy is granted..

Member (J).

RSM.

O.A.No.59/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri S.P. Palshikar, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the respondents.

2. The learned counsel for the applicants submitted that the applicants are working as a Driver on the establishment of SRPF, Amravati. Their services are not transferable, but nothing is on record to show that their services are not transferable. Hence, the applicants are directed to show any Act or Rule on the next date so as to support their submission.

S.O. 16/06/2022.

Interim relief to continue till then.

Member (J).

RSM.

O.A.No.915/2018 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri Vishal Anand, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for R-1 to 4. None for R-5.

S.O. 20/06/2022.

Member (J).

RSM.

O.A.Nos.96 & 98 of 2020 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri N.S. Warulkar, Id. counsel for the applicants and Shri V.A. Kulkarni, Id. P.O. for the respondents.

With the consent of Id. counsel for both the parties, **S.O. 15/06/2022.**

Member (J).

RSM.

O.A.No.571/2021 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri V.A. Kothale, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the respondents.

With the consent of Id. counsel for both the parties, **S.O. 13/06/2022.**

Member (J).

RSM.

(S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

**O.A. 134/2019 with C.A. 162/2020, O.A.
135/2019 with C.A. 171/2020, O.A. 136/2019
with C.A. 172/2020 & O.A. 137/2019 in C.A.
173/2020**

Heard Shri N.R. Saboo, Id. counsel for
the applicants and Shri A.M. Khadatkar, Id. P.O.
for the respondents.

S.O. 16/06/2022.

Member (J).

dnk.

O.A.No.876/2019 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri V.P. Marpakwar, Id. counsel for the applicant and Shri A.M. Khadatkar, Id. P.O. for the respondents.

2. The learned counsel for the applicant has pointed out the letter dated 17/7/2019 issued by the Deputy Director of Health Services, Akola Division, Akola. As per this letter, the concerned authority was directed to submit the proposal in triplicate for completion of probation of the applicant.

3. The matter be kept on 15/6/2022. In between, the Id. P.O. to get instructions as to what action is taken on the letter dated 17/7/2019 issued by the Deputy Director of Health Services, Akola Division, Akola.

S.O. 15/06/2022.

Member (J).

RSM.

O.A.No.625/2021 (S.B.)

(Gajanan R. Ingle Vs. State of Mah. & ors.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri N.R. Saboo, Id. counsel for the applicant, Shri A.M. Khadatkar, Id. P.O. for R-1 to 3 and Shri S.N. Gaikwad, Id. counsel for R-4.

2. The learned counsel for the applicant submitted that the wife of applicant is working in the Tahsil Office at Rajura. The applicant was transferred from Virur, Central Chanda Forest Division, Chandrapur to Social Forestry Division, Chandrapur. The applicant had given choices for posting and those choices were not considered in the general transfers and therefore this O.A. is filed before this Tribunal. This Tribunal has granted stay to the transfer order of applicant from Virur, Central Chanda Forest Division, Chandrapur to Social Forestry Division, Chandrapur.

3. Heard learned P.O. for respondent nos.1 to 3 Shri A.M. Khadatkar. He has supported the action of the respondents / authority.

4. Heard learned counsel for respondent no.4 Shri S.N. Gaikwad. He has submitted that the respondent no.4 is transferred from Gondia to Virur and there was no fault on the part of respondent no.4. Because of the stay granted by this Tribunal, the respondent no.4 could not join at the transferred place. On the last date also, it was submitted that the wife of applicant is working as a Clerk in the Tahsil Office, Rajura, therefore, the applicant filed the affidavit. He has stated in the affidavit that his wife is residing at Rajura. The learned counsel for the applicant Shri N.R. Saboo submits that the post at Rajura is vacant.

5. At present nothing is on record to show that the post at Rajura is vacant. Moreover, the choices given by the applicant in the general transfers, show that he has not requested for his choice posting at Rajura. On the other hand, it shows that he opted for Moharli, i.e., in the Tadoba Forest Buffer Zone which is 40 Kms. away from Chandrapur. When the applicant is ready to go to Moharli, then there was no hurdle for him to join at Chandrapur which is 40 Kms early from Tadoba/ Moharli.

6. The learned counsel for the applicant submitted that the applicant will join at Chandrapur, but direction be given to the respondents / authority to consider him for transfer at Rajura.

7. Looking to the submission, the O.A. is disposed off. The applicant shall join at the transferred place at Chandrapur within a period of one week. He may request to the Authority by submitting representation for transfer at Rajura. The respondents / authority are directed to consider the same, if the vacant post is available at Rajura in the coming general transfers of April / May, 2022. No order as to costs.

Steno copy is granted....

Member (J).

RSM.
**

O.A.No.156/2020 (S.B.)

Coram: Hon'ble Shri Justice M.G. Giratkar, Member (J).

Dated : 02/05/2022.

Heard Shri K.N.Dadhe, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondent nos.1, to 3. None for the R-4 & 5.

2. The order was passed by this Tribunal on 31.01.2022. The Id. counsel for the applicant submits that on previous occasion, last chance was given to file reply. Today, also Id. P.O. has not filed reply. Hence, the matter be kept in the 2nd week of June, 2022 for final hearing.

3. **S.O. after summer vacation.**

Member (J).

RSM.

O.A.No.230/2021 (S.B.)

**Coram:Hon'bleShri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

None for the applicant and Shri
A.M.Khadatkar, Id. P.O. for the
respondents.

2. At the request of learned P.O. **S.O.**
after summer vacation.

Member (J).

RSM.

O.A.No.381/2021 (S.B.)

**Coram:Hon'bleShri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri N.R.Saboo, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondent nos.1 & 2. Shri B.B.Pantawane, Id. counsel for the R-4. Shri R.S.Khobragade, Id. counsel for R-3.

2. The respondent no.1 & 2 have filed reply. Learned counsel for the respondent no.3 adopted the reply filed by respondent no.1. Respondent no.4 has already filed reply. Hence, this matter is **admitted** for final hearing.

3. Till then, interim relief to continue granted on 17.05.2021.

4. **S.O. to 15.06.2022.**

Member (J).

RSM.

O.A.No.1084/2021 (S.B.)

**Coram:Hon'bleShri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

None for the applicant and Shri
V.A.Kulkarni, Id. P.O. for the respondents.

2. Learned P.O. seeks time to file reply.
3. **S.O. after summer vacation.**

Member (J).

RSM.

O.A.No.09/2022 (S.B.)

**Coram:Hon'bleShri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri Sadar, Id. counsel holding for Shri V.A.Kothale, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondent no.1. Shri R.M.Sharma Id. counsel for R-2.

2. **S.O. to 13.06.2022.**

Member (J).

RSM.

O.A.No.60/2022 (S.B.)

**Coram: Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Mrs.A.Sambre, Id. counsel for the applicant and Shri V.A.Kulkarni, Id. P.O. for the respondents.

2. Learned P.O. seeks time to file reply. O.A. is filed for direction to the respondents to sanction leave to the applicant for the period from **15.06.2012 to 11.09.2012**. The applicant is retired on 31.06.2021.

3. Time is granted to file reply as a last chance. It is made clear that if reply is not filed till next date, matter will be heard on merit.

4. **S.O. 14.06.2022.**

Member (J).

RSM.

O.A.No.142/2022 (S.B.)

**Coram:Hon'bleShri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri R.M.Fating, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

2. Learned P.O. seeks time to file reply.
3. **S.O. 15.06.2022.**

Member (J).

RSM.

O.A.No.372/2022 (S.B.)

**Coram:Hon'bleShri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

None for the applicant and Shri
A.M.Khadatkar, Id. P.O. for the respondents.

2. Learned P.O. seeks time to file reply.

3. **S.O. 15.06.2022.**

Member (J).

RSM.

O.A.No.400/2022 (S.B.)

**Coram:Hon'bleShri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri V.K.Paliwal, Id. counsel
for the applicant and Shri A.M.Khadatkar, Id.
P.O. for the R-1.

2. The applicant undertakes to collect
Hamdast for R-2 &3 **within one week.**

S.O. after summer vacation.

Member (J).

RSM.

O.A.No.401/2022 (S.B.)

**Coram:Hon'bleShri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri B.S.Bhendarkar, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the await service to 2 to 4.

2. At the request of Id. counsel for the applicant, **S.O. after summer vacation** to file service affidavit on record.

Member (J).

RSM.

O.A.No.467/2021 (S.B.)

**Coram:Hon'bleShri Justice M.G. Giratkar,
Member (J).**

Dated : 02/05/2022.

Heard Shri N.S.Bhelkar, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

2. On 28.03.2022 last chance was granted to file reply. Thereafter, O.A. was fixed on 11.04.2022. Today also reply is not filed. Hence, the matter will be fixed on 13.06.2022 for final hearing.

3. **S.O. 13.06.2022.**

Member (J).

RSM.

