

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.722 OF 2023**

**DISTRICT : MUMBAI  
SUBJECT : RECOVERY**

Shri Pradeep Tanaji More, Retired Office Supdt. )... **Applicant**

**Versus**

- |    |  |                         |  |
|----|--|-------------------------|--|
| 1) | The Additional Chief Secretary,              | )                       |  |
|    | Home Department, Mantralaya, Mumbai.         | )                       |  |
| 2) | The Accounts Officer, Pay Verification Unit, | )                       |  |
|    | Mumbai.                                      | )                       |  |
| 3) | The Director General of Police,              | )                       |  |
|    | Maharashtra State, Mumbai.                   | )                       |  |
| 4) | The Accountant General                       | )                       |  |
|    | (Accounts and Entitlement)-I, 101,           | )                       |  |
|    | Mharshi Karve Marg, 2nd Floor, Mumbai.       | )... <b>Respondents</b> |  |

**Shri Kiran Upasani, learned Advocate for the Applicant.**

**Shri Ashok J. Chougule, learned Presenting Officer for the Respondents.**

**CORAM : M.A. LOVEKAR, VICE-CHAIRMAN**

**RESERVED ON : 14.02.2025**

**PRONOUNCED ON : 18.02.2025**

**JUDGMENT**

1. Heard Shri Kiran Upasani, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. The applicant was promoted as Senior Grade Clerk on 10.04.2006. His pay was accordingly fixed. Thereafter, he was promoted as Head Clerk. Lastly, he was promoted as Office Superintendent. By order dated 12.09.2022 (Exhibit R-5) his pay was refixed as follows -

“लेखा अधिकारी, वेतन पडताळणी पथक, मुंबई यांनी नोंदविलेल्या आक्षेपाचे निराकरण करणेकामी या कार्यालयाचे सेदर्भ क्र. ३ चे आदेशान्वये श्री. प्रदिप तानाजी मोरे, तत्का वरिष्ठ श्रेणी लिपिक यांचे दि. ०१/०७/२००६ रोजी श्री. आनंदराव झानू खोडके, तत्का वरिष्ठ श्रेणी लिपिक यांच्या दि. ०१/०७/२००६ चे वेतनापर्यंत (९३४० + ग्रेड पे २४००) वाढवून (वेतन उंचावून) देण्यात आलेबाबतचे आदेश रद्द करण्यात येत आहे. यास्तव, श्री. प्रदिप मोरे यांचे दि. ०१/०७/२००६ पासून ते दि. ०१/०७/२०२२ पर्यंतच्या वेतनाची सुधारित वेतननिश्चिती (६ वेतन व ७ वे वेतन आयोगानुसार) खालीलप्रमाणे करण्यात येत आहे. :-

**सहाय्या वेतन आयोगानुसार सुधारित वेतन**

पदनाम	वेतनश्रेणी
कनिष्ठ श्रेणी लिपिक	५२००-२०२०० + ग्रेड वेतन १९००/-
वरिष्ठ श्रेणी लिपिक	५२००-२०२०० + ग्रेड वेतन २४००/-
प्रमुख लिपिक - गट क	९३००-३४८०० + ग्रेड वेतन ४२००/-

दिनांक ०१/०७/२००६ चे मूळ वेतन = रु. ४८०० x १.८६ = ८९३० + ग्रेड वेतन १९००/-”

He retired on superannuation on 30.09.2022. By order dated 18.04.2023 (Exhibit R-10) recovery of excess payment stated to have been made to him, was directed. This order stated that undertaking given by the applicant as per G.R. dated 22.11.2021 was there in service book of the applicant. By order dated 09.05.2023 (Exhibit R-11) it was communicated to respondent no.1 that amount of excess payment of Rs.1,33,367/- was not recovered from the applicant. Hence, this O.A. impugning in the orders of recovery.

3. Stand of respondent nos.2 and 3 is that on account of the objection of Pay Verification Unit pay of the applicant was revised, it transpired that excess payment was made to the applicant, it further transpired that the applicant had executed an undertaking to refund the amount received in excess, thus, the ratio in the case of **Hon'ble High Court of Punjab & Haryana & Ors. v/s. Jagdev Singh, Civil Appeal**

**No.3500/2006** was applicable and hence the proposed recovery was permissible.

4. The applicant has relied on **State of Punjab and others Vs. Rafiq Masih (White Washer) (2015) 4 SCC 334** wherein it is held -

*“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 belong to Class-III and Class-IV services (or Group ‘C’ and Group ‘D’ services).*
- (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.”*

5. The applicant retired on superannuation on 30.09.2022. Re-fixation which led to the order of recovery was made on 12.09.2022. The period during which excess payment was stated to have been made was from 01.07.2006 to 01.07.2022. Thus, in this case latter part of clause (ii), and clause (iii) of **Rafiq Masih (supra)** are attracted rendering the proposed recovery impermissible.

6. So far as the undertaking sought to be relied upon is concerned, there is no nexus between it and the amount which is stated to have been paid in excess. Hence, the said undertaking would not help the Respondents. For these reasons, the O.A. is allowed. It is held that the impugned recovery is impermissible. No order as to costs.

**Sd/-**  
**(M.A. Lovekar)**  
**Vice-Chairman**

Place: Mumbai  
Date: 18.02.2025  
Dictation taken by: N.M. Naik.

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