

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO.664/2024 (S.B.)**

Ganesh Uddhavrao Sonaskar,  
Aged about 65 years,  
R/o. Plot No. 24, Padmavati Nagar,  
Bh. IDBI Bank, Godhni, Dist. Nagpur.

... **APPLICANT**

**// V E R S U S //**

- 1] **The State of Maharashtra,**  
Through its Department of Home,  
Mantralaya, Mumbai -32.
- 2] **The Director General of Police (M.S),**  
Hutatma Chauk, Near Regal Cinema,  
Mumbai.
- 3] **Police Superintendent, (Rural),**  
Civil Lines, Near Providence Girls School,  
Nagpur.

... **RESPONDENTS**

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**Shri Sagar Katkar, Ld. counsel for the Applicant.**

**Smt S.R.Khobragade, Learned P.O. for the Respondents.**

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**Coram    :-    Hon'ble Shri Justice M. G. Giratkar,**  
**Vice Chairman.**

**Dated    :-    06/03/2025.**

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

Heard Shri Sagar Katkar, learned counsel for the applicant and Smt. S.R. Khobragade, learned P.O. for the respondents.

2. The case of the Applicant in short is as under :-

Applicant was working as Constable with respondent No.3. Applicant is retired on 31/05/2018. Respondent No.3 vide order dated 22/02/2018 issued recovery order of Rs.1,57,872/- and recovered the said amount from his retiral benefits. Therefore, applicant has approached to this Tribunal for the following reliefs:-

*“8.i) It is therefore, prayed that this Hon'ble Tribunal, may kindly be pleased to quash and set aside the order passed by the respondent no.3 annexed at ANNEXURE – 2;*

*ii) By appropriate order be pleased to direct the respondents to release the said amount of Rs 1,57,872/- alongwith interest at 8% p.a. in compliance with the order of the Hon'ble Apex Court with further direction to release all the consequential reliefs.*

*iii) To grant any other remedy if this Hon'ble Tribunal deems fit.”*

3. O.A. is strongly opposed by the Respondent No.2 by filing Affidavit-in-reply. It is submitted that as per the objections raised by the Pay Verification Unit, Respondent No.3 has recovered an amount of Rs.1,57,872/-. Applicant was appointed as Temporary Armed Police Constable on 24/08/1981. Thereafter, his service was terminated w.e.f. 08/03/1984. Thereafter, he was reinstated w.e.f. 20/10/1984, and thereafter again he was dismissed w.e.f. 01/08/1994. Again, he was reinstated on 08/08/1996. Thereafter, he was promoted as Head Constable on 11/10/1999. Thereafter, he was promoted as Assistant Sub-Inspector (A.S.I.) on 16/10/2009. There was wrong pay fixation and the Pay Verification Unit has raised objections. Therefore, the excess payment made to applicant was recovered. Therefore, the O.A. is liable to be dismissed.

4. There is no dispute that applicant had not given any undertaking for the recovery of excess payment. There is no any dispute that applicant was working as a Class-III employee. Applicant was about to retire within one year from the date of the recovery order. The Judgment of the Hon'ble Supreme Court in the case of *State Of Punjab & Ors vs. Rafiq Masih (White*

**Washer) decided on 18 December, 2014** in Civil Appeal No. 11527/2014 (Arising out of S.L.P. (C) No.11684/2012), has given following guidelines :-

*“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 hereinabove, 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.”*

**5.** As per the Guideline Nos.(i) and (ii) of the Judgment of the Hon’ble Supreme Court in the case of **State Of Punjab &**

*Ors vs. Rafiq Masih (cited supra)*, the respondents cannot recover the amount from the applicant. Hence, the following order:-

**O R D E R**

- (i) O.A. is allowed;
- (ii) The impugned recovery order dated 22/02/2018 is hereby quashed and set aside;
- (iii) The recovered amount of Rs.1,57,872/- shall be refunded to the applicant within a period of three months from the date of receipt of this order;
- (iv) If the amount is not refunded within a stipulated period of three months, then amount shall carry interest @ 6% p.a. from the date of recovery till the actual refund;
- (v) No order as to costs.

**(Justice M.G.Giratkar)**  
**Vice Chairman.**

**Dated :-06/03/2025.**  
**PRM.**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Piyush R. Mahajan.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 06/03/2025.