

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 514 of 2020 (S.B.)**

Mahadeo s/o Sitaramji Mahadule  
a/a 73 yrs., Occ.- Retired  
r/o Shivaji Ward No. 3 Tukum, Dist.- Chandrapur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through its Secretary, Revenue and Forest Department,  
Mantralaya, Mumbai- 32.
- 2) The State of Maharashtra,  
Through its Secretary, Finance Department,  
Mantralaya, Mumbai- 32.
- 3) The Deputy Director (Buffer),  
Tadoba-Andheri Tiger Project, District- Chandrapur.
- 4) The Additional Treasury Officer,  
District Treasury Office, Chandrapur.
- 5) The Accountant General (A & E) II,  
Pension Branch Office, Nagpur, Dist.- Nagpur.

**Respondents.**

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**S/Shri R.K., V.R. Borkar, Advocates for the applicant.**  
**Shri A.P. Potnis, learned P.O. for respondents.**

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

**Dated :- 19/11/2024.**

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

Heard Shri V.R. Borkar, learned counsel for the applicant  
and Shri A.P. Potnis, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant was initially appointed as a Clerk on  
18/07/1970. Thereafter, he was promoted on the post of Accountant in

the year 1997. The applicant was retired on 31/03/2006 after attaining the age of superannuation. Respondent nos. 4 and 5 issued recovery orders of Rs.1,29,146/- on 22/05/2019 and 04/06/2020. Hence, the applicant has filed the present O.A. for the following reliefs –

*“(7) (i) That, by issue of suitable writ, order or direction, the order of recovery of amount of Rs. 1,29,146/- from pension by orders dt. 22.5.2019 & 4.6.2020 produced at Annexure- A4 & A1 respectively issued by the Respondent nos. 4 & 5 may kindly be quashed and set aside in the interest of justice.*

*ii) That, by issue of suitable writ, order or direction the respondents may kindly be directed to refund the recovered amount with interest as per law.”*

3. Respondent no.4 has filed reply and opposed the claim of applicant. It is submitted that the applicant was granted promotional pay as per G.R. dated 06/08/2002. The said promotional pay was wrongly taken into consideration while calculating the pension amount. Therefore, recovery order was issued. As per G.R. dated 06/08/2002 the promotional pay was to be paid till the actual working of the employee in the naxalite area. Therefore, impugned recovery orders are legal and correct. Hence, the O.A. is liable to be dismissed.

4. During the course of submission the learned counsel for applicant has pointed out the Judgment of the Hon’ble Supreme Court in the case of ***State Of Punjab & Ors vs. Rafiq Masih (White Washer) reported in AIR 2015 SC 696***. The material guidelines are reproduced 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.”*

5. There is no dispute that the applicant was retired on 31/03/2006. The applicant was working as Accountant on Class-III post. The recovery order was issued after the retirement, i.e., after 13 years. Hence, the recovery is not proper in view of the guideline nos.(i), (ii) & (iii) given in the Judgment of the Hon’ble Supreme Court

in the case of ***State Of Punjab & Ors vs. Rafiq Masih (White Washer) (cited supra)***. The recovery is in respect of amount for more than five years from the date of recovery order.

6. Hence, in view of the guideline nos.(i), (ii) & (iii) of the Judgment of the Hon'ble Supreme Court in the case of ***State Of Punjab & Ors vs. Rafiq Masih (White Washer) (cited supra)***, the impugned recovery orders are liable to be quashed and set aside. Therefore, the following order –

**ORDER**

- (i) The O.A. is allowed.
- (ii) The impugned orders of recovery of Rs.1,29,146/- dated 22/05/2019 and 04/06/2020 issued by respondent nos.4 and 5 are hereby quashed and set aside.
- (iii) The amount if any recovered by the respondent authorities, 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 stipulated period of three months, then amount shall carry interest @ 6% p.a. from the date of recovery till the date of refund.
- (v) No order as to costs.

**Dated** :- 19/11/2024.

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

\*dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 19/11/2024.