

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 536 of 2021 (S.B.)**

Uddhav s/o Pandurang Patil,  
a/a 66 yrs., Occ.- Pensioner,  
r/o Shivaji Nagar, Mul Road, Chandrapur,  
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 the Secretary,  
Finance Department, Mantralaya Mumbai-32.
- 3) The Chief Conservator of Forest Chandrapur Circle,  
District- Chandrapur.
- 4) The District Treasury Officer,  
District Treasury Office, Chandrapur.
- 5) The Accountant General (A & E)-II,  
Pension Branch Office, Nagpur, Dist.- Nagpur.

**Respondents.**

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**Shri V.R. Borkar, Advocate 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 :- 01/08/2024.**

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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 applicant was initially appointed as Assistant Forest Conservator through the M.P.S.C. on 7/1/1985. Thereafter, he was promoted to the post of Divisional Forest Officer in the year 1997. During his service period, he served at various places and he came to be retired from service on attaining the age of superannuation on 31/03/2013 from Chandrapur District.

3. Respondent no.5 issued letter dated 18/08/2020 to respondent nos.3 and 4 directing it to recover the excess paid D.C.R.G. amount and allegedly paid the excess amount of pension. Respondent no.3 directed respondent no.4 to act accordingly as per the letter of respondent no.5. On the basis of said letter, respondent no.4 proposed recovery of Rs.2,17,585/- from the pension amount. The applicant received the order of recovery from respondent no.4, dated 1/1/2021 in which allegedly paid excess amount of Rs.2,17,585/- is proposed to be recovered in 43 monthly instalments of Rs.5,000/- p.m. and one last instalment of Rs.2,585/- in all total 44 monthly instalments and respondent no.4 recovered amount of Rs.5,000/- p.m. from the month of January,2021 till the filing of this application. Thereafter because of stay of this Tribunal the recovery was stopped.

4. The O.A. is strongly opposed by the respondents. The learned P.O. has pointed out the G.Rs. dated 17/12/2013, 15/02/2014

and 18/10/2014. Respondent no.5 issued letter dated 18/08/2020 to respondent nos.3 and 4 for recovery of amount from the beneficiary and respondent no.4 has proposed recovery. The amount of Rs.2,17,585/- was wrongly paid to the applicant. It is submitted that impugned recovery order is perfectly legal and correct. Therefore, the O.A. is liable to be dismissed.

5. Heard learned counsel for applicant Shri V.R. Borkar. He 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***. He has pointed out the guidelines nos.(ii) and (iii) of the said Judgment. As per the submission of the learned counsel for applicant, the applicant is a retired employee. The amount was recovered is in respect of the amount which was paid more than 5 years from the date of recovery order. Therefore, recovery is not legal and proper. Hence, prayed to allow the O.A.

6. Heard learned P.O. Shri A.P. Potnis for the respondents. As per his submission, the applicant is a Class-I Officer, therefore, the said Judgment is not applicable. Hence, the O.A. is liable to be dismissed.

7. The Hon'ble Supreme Court in the case of ***State Of Punjab & Ors vs. Rafiq Masih (White Washer) (cited supra)*** 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 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.”***

8. In view of guideline no. (ii) recovery is not permissible from the retired employee. As per guideline no.(iii), recovery in respect of the amount which was to be recovered for more than 5 years from the date of recovery order, is not permissible.

9. The applicant was retired on 31/03/2013. The respondents have issued recovery order dated 01/01/2021. Therefore, in view of guideline nos. (ii) and (iii), in the case of **State Of Punjab & Ors vs. Rafiq Masih (White Washer)** (*cited supra*) the recovery is not legal and proper. Hence, the following order –

**ORDER**

(i) The O.A. is allowed.

(ii) The impugned recovery orders dated 18/08/2020 and 01/01/2021 are hereby quashed and set aside.

(iii) The respondents are directed to refund recovered amount, if any, within a period of three months from the date of receipt of this order.

(iv) No order as to costs.

**Dated** :- 01/08/2024.

**(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 : 01/08/2024.