

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 408/2022(S.B.)**

Prakash S/o Manikrao Chavan,  
Aged about 61 years,  
Occupation – Retired,  
R/o Flat No.A-215,  
Rachana Sayantara Apartment, Hajaripahad,  
Nagpur-440007.

**Applicant.**

**Versus**

1. The State of Maharashtra,  
Through Principal Secretary,  
Revenue & Forest Department,  
Mantralaya, Mumbai - 32.
2. Additional Principal Chief Conservator of Forest,  
(Administration),  
Maharashtra State,  
Van Bhavan, Civil Lines, Nagpur.
3. Divisional Forest Officer,  
Evaluation Division, Chandrapur,  
District – Chandrapur.
4. Director,  
Accounts & Treasury,  
3<sup>rd</sup> floor, Near Post Office,  
Thakarsy House, Balard Easte,  
Mumbai.

5. Joint Director,  
Accounts & Treasury,  
Nagpur Division, Lekha Kosh Bhavan,  
Civil Lines, Nagpur-440001.
6. Accounts Officer,  
Pay Verification Unit,  
Lekha Kosh Bhavan,  
Civil Lines, Nagpur-440001.

**Respondents.**

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Shri B.Chandrakapure, Ld. Counsel for the applicant.  
Shri A.P.Potnis, Ld. P.O. for the respondents.

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

**Dated: - 03<sup>rd</sup> May, 2024.**

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**JUDGMENT**

Heard Shri B.Chandrakapure, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the Respondents.

2. Case of the applicant in short is as under-

The applicant was working on the post of Surveyor i.e. Class – III post. Applicant came to be retired on 30.04.2019. After the retirement the Pay Verification Unit informed the department to recover the excess payment of Rs.36,000/- from the applicant. The applicant has challenged the impugned letter of Pay Verification Unit.

Therefore, the applicant approached to this Tribunal for the following reliefs –

*ij) Quash the objections of Pay Verification Unit, Nagpur, to recover amount of Rs.36,000/- since 2009 from the pension of the applicant after his retirement and direct the respondents not to make recovery amount from pension of the applicant after his retirement.*

*ii) Saddle the cost of the application on the respondents;*

*iii) Grant any other relief which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*

**INTERIM ORDERS IF ANY PRAYED FOR:-**

*Grant stay to the recovery of approximately Rs.36,000/- as proposed by the Pay Verification Unit, Nagpur, w.e.f. 2009.*

3. The O.A. is strongly opposed by the respondents. It is submitted that the applicant was wrongly given second time bound promotion and it was noticed by the Pay Verification Unit and therefore the recovery of Rs.36,000/- is to be made. Hence, the O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for the 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)* *decided on 18 December, 2014* and submitted that the recovery from Class-III and also from retired employees cannot be made. Hence, prayed to allow the O.A..

5. Heard learned P.O.. As per his submission, the applicant was wrongly granted second time bound promotion and therefore correction is to be made and excess amount is to be recovered from the applicant. Hence, the O.A. is liable to be dismissed.

6. The Hon'ble Supreme Court has given guidelines in para 12 of the Judgment. Those 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."*

7. As per guidelines nos. 1 and 2, recovery cannot be made from Class -III and Class-IV employees. Recovery from the retired employees cannot be made. The applicant is retired employee. He

was a Class-III employee. Therefore, recovery is not permissible.

Hence, the following order –

**ORDER**

1. The O.A. is allowed.
2. The letter issued by Pay Verification Unit, Nagpur to recover amount of Rs.36,000/- is hereby quashed and set aside.
3. No order as to costs.

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

**Dated – 03/05/2024**  
rsm.

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

Name of Steno : Raksha Shashikant Mankawde  
Court Name : Court of Hon'ble Vice Chairman.  
Judgment signed on : 03/05/2024.  
Uploaded on : 08/05/2024.

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