

O.A.No.1008/2018. (S.B.)

Coram: Shri Shree Bhagwan, Member(A)

Dated: 26th December 2018.

Heard Shri G.G.Bade, the Id. Counsel for the applicant and Shri V.B.Kulkarni, the Id. P.O. for the State.

2. The Id. Counsel for the applicant has pointed out that vide letter no. vKLFk@12@166@2018&19] fnukd 23-04-2018 at P.B., Pg. No. 08 (Annexure-A-1), recovery of amount 6,61,312 has been effected for the period from January, 2006 to April, 2018 as per the chart of Pg. No. 9 to 14. The Id. Counsel for the applicant relies on the Hon'ble Apex Court Judgment of **State of Punjab Vs. Rafiq Masih (White Washer) in Civil Appeal No. 11527 of 2014 (Arising out of SLP (C) No. 11684 of 2012) decided on 18/12/2014.**

3. The points mentioned in the above said Apex Court Judgment at Pg. No. 20 is below:-

- (i) Recovery from employees belonging to Class-III and Class-IV service (or Group-C and Group-D service).

- (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.

The above paras cover the issue of the applicant as pleaded by the Id. Counsel for the applicant. However, it is desirable to take reply of the Department. Since, this issue will be flaged with oru ijrk. The Id. Counsel for the applicant submits that recovery has been affected till now. **In view of this, it is directed that recovery should not be affected till filing of the reply.**

- 4. Issue notice to R-2 to 4, returnable on four weeks. Learned P.O. waives notice for R-1. Hamdast allowed.
- 5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- 6. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case

would be taken up for final disposal at the stage of admission hearing.

7. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

8. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

9. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

10. **S.O. four weeks.**

11. *Put up this matter along with the O.A.
Nos. 1009 & 1010/2018.*

Member(A)

Date:-26/12/2018.
aps.

O.A.No.1009/2018. (S.B.)

Coram: Shri Shree Bhagwan, Member(A)

Dated: 26th December 2018.

Heard Shri G.G.Bade, the Id. Counsel for the applicant and Shri V.B.Kulkarni, the Id. P.O. for the State.

2. The Id. Counsel for the applicant has pointed out that vide letter no. ~~vkLFk@12@118@2018&19]~~ fnukd 23-04-2018 at P.B., Pg. No. 07-A (Annexure-A-1), recovery of amount 5,14,841 has been effected for the period from January, 2008 to January, 2018 as per the chart of Pg. No. 9 to 14. The Id. Counsel for the applicant relies on the Hon'ble Apex Court Judgment of **State of Punjab Vs. Rafiq Masih (White Washer) in Civil Appeal No. 11527 of 2014 (Arising out of SLP (C) No. 11684 of 2012) decided on 18/12/2014.**

3. The points mentioned in the above said Apex Court Judgment at Pg. No. 20 is below:-

- (i) Recovery from employees belonging to Class-III and Class-IV service (or Group-C and Group-D service).

- (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.

The above paras cover the issue of the applicant as pleaded by the Id. Counsel for the applicant. However, it is desirable to take reply of the Department. Since, this issue will be flaged with oru ijrk. The Id. Counsel for the applicant submits that recovery has been affected till now. **In view of this, it is directed that recovery should not be affected till filing of the reply.**

- 4. Issue notice to R-2 to 4, returnable on four weeks. Learned P.O. waives notice for R-1. Hamdast allowed.
- 5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- 6. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case

would be taken up for final disposal at the stage of admission hearing.

7. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

8. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

9. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

10. **S.O. four weeks.**

11. *Put up this matter along with the O.A.
Nos. 1008 & 1010/2018.*

Member(A)

Date:-26/12/2018.
aps.

O.A.No.1010/2018. (S.B.)

Coram: Shri Shree Bhagwan, Member(A)

Dated: 26th December 2018.

Heard Shri G.G.Bade, the Id. Counsel for the applicant and Shri V.B.Kulkarni, the Id. P.O. for the State.

2. The Id. Counsel for the applicant has pointed out that vide letter no. vKLFk@12@119@2018&19] fnukd 23-04-2018 at P.B., Pg. No. 08 (Annexure-A-1), recovery of amount 5,99,694 has been effected for the period from January, 2006 to February, 2018 as per the chart of Pg. No. 10 to 15. The Id. Counsel for the applicant relies on the Hon'ble Apex Court Judgment of **State of Punjab Vs. Rafiq Masih (White Washer) in Civil Appeal No. 11527 of 2014 (Arising out of SLP (C) No. 11684 of 2012) decided on 18/12/2014.**

3. The points mentioned in the above said Apex Court Judgment at Pg. No. 20 is below:-

- (i) Recovery from employees belonging to Class-III and Class-IV service (or Group-C and Group-D service).

- (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.

The above paras cover the issue of the applicant as pleaded by the Id. Counsel for the applicant. However, it is desirable to take reply of the Department. Since, this issue will be flaged with oru ijrk. The Id. Counsel for the applicant submits that recovery has been affected till now. **In view of this, it is directed that recovery should not be affected till filing of the reply.**

- 4. Issue notice to R-2 to 4, returnable on four weeks. Learned P.O. waives notice for R-1. Hamdast allowed.
- 5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
- 6. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case

would be taken up for final disposal at the stage of admission hearing.

7. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

8. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

9. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

10. **S.O. four weeks.**

11. *Put up this matter along with the O.A.
Nos. 1008 & 1009/2018.*

Member(A)

Date:-26/12/2018.
aps.