

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 14674 of 2023**

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DR. MAHENDRASINH C. PATEL

Versus

STATE OF GUJARAT

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Appearance:

MR ARSHAD SHAIKH(11761) for the Petitioner(s) No. 1

MR SP MAJMUDAR(3456) for the Petitioner(s) No. 1

for the Respondent(s) No. 2,3,4

MR SAHIL TRIVEDI, AGP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 25/08/2023****ORAL ORDER**

1. Heard learned Advocate Mr. Arshad Shaikh for the petitioner and learned AGP Mr. Sahil Trivedi for the respondent-State.

2. By way of this petition, the petitioner inter alia challenges a decision on the part of the respondent No.3 herein of not processing the pension papers of the present petitioner on the ground that the present petitioner had not re-deposited the amount of NPPA overpaid to the present petitioner.

3. Considering the submissions made by learned Advocate Mr. Shaikh, it would appear that while the benefit of NPPA with effect from 01.01.2006 to 31.03.2009, had been paid to the petitioner in the year 2009 in the five installments and whereas it would also appear that vide a Resolution dated 01.09.2010, the Finance Department of the State Government had taken a policy decision that persons like the petitioners, who would be entitled to NPPA from 01.01.2006 to 31.03.2009 shall be

entitled to NPPA only from 01.04.2009, whereas the earlier period between 01.01.2006 to 31.03.2009 shall be treated as notional. Learned Advocate Mr. Shaikh would further submit that prior to the impugned decisions dated 08.08.2022 and 23.08.2022, the petitioner had never been called upon to repay the amount overpaid to the petitioner.

4. Considering the submissions made by learned Advocate Mr. Shaikh, more particularly since it appears that the issue of recovery as raised in the present petition would be covered by decision of the Hon'ble Apex Court in case of **State of Punjab & Others Vs. Rafiq Masih (White Washer) and others reported in (2015) 4 SCC 334** and further considering the fact that the petitioner is slated to retire on 30.04.2024, issue **Notice for final disposal** returnable on **22.09.2023**.

5. It is clarified that till the next date of hearing the respondents shall not take any precipitative steps to recover the amount allegedly overpaid to the petitioner. Direct service is permitted.

BDSONGARA

(NIKHIL S. KARIEL,J)