



2026:CGHC:21432



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 375 of 2021

- Balram Sahu S/o Late Banwali Sahu Aged About 50 Years Clerk, Government Higher Secondary School, Baima Nagoi, R/o Ashok Nagar, Sarkanda, District Bilaspur Chhattisgarh.

... Petitioner(s)

versus

1. The State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Raipur, District Raipur Chhattisgarh.
2. The District Education Officer Bilaspur District Bilaspur Chhattisgarh.
3. Joint Director, Treasury And Accounts, Bilaspur, District Bilaspur Chhattisgarh.
4. The Principal, Government Higher Secondary School, Baima Nagoi, District Bilaspur Chhattisgarh.

... Respondent(s)

For Petitioner	: Mr. Rishikant Mahobia, Advocate
For State	: Mr. Vivek Siddharth Ojha, Panel Lawyer

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

07.05.2026

1. By way of this petition, the petitioner has sought the following relief(s):-

“10.1 That, this Hon'ble Court may kindly be pleased to quash the recovery order dated 11.12.2020, passed by the Principal, Government Higher Secondary School. Baima Nagoi, Bilaspur (C.G.), the respondent No. 4.

10.2 That this Hon'ble Court may further be pleased to direct the respondent authorities to consider the grievances of the petitioner in respect



of non-payment of his service dues.

10.3 That, any other relief, which this Hon'ble Court deems fit under the facts and circumstances of the case may kindly be granted to the petitioner.”

2. Mr. Mahobia would submit that the petitioner was appointed on the post of Peon on 04.08.1994 under the respondent No. 4. He would contend that petitioner was promoted to the post of Assistant Grade III vide order dated 28.02.2009 and he was extended benefit of advance increment twice in the year 2009 and said benefit continued till month of November, 2020. He would contend that respondent No. 4 vide order dated 11.12.2020 has issued an order of recovery to the tune of Rs. 98406/- in 48 installments, first installment of Rs. 2406/- and remaining installments Rs. 2000/- each. He would submit that the petitioner is a Class III employee and there was no misrepresentation and it would be iniquitous on part of petitioner to refund said amount. It is also argued that grant of two advance increments in a year continued from 2009 till 2020, and thereafter, order of recovery has been passed. He would submit that the matter of the petitioner is squarely covered with the judgment passed in the matter of *State of Punjab v. Rafiq Masih (White Washer) and others* reported in *(2015) 4 SCC 334*.
3. On the other hand, learned counsel appearing for the State would submit that the petitioner was aware of the fact that he has wrongly been extended benefit of two increments in a year and he failed to communicate this mistake to the department and avail the benefit for 11 years. He would contend that the department detected mistake and immediately thereafter passed order of recovery. He would submit that the petition deserves to be dismissed.



4. I have heard learned counsel for the parties and perused the documents placed on record.
5. Admittedly, benefit of two increments in a year was extended by the department and there was no misrepresentation on the part of the petitioner. In the return, State has not placed a single document to demonstrate any fraud on the part of the petitioner. It is also not in dispute that said benefit continued for period of 11 years till month of November, 2020. The petitioner is Class III employee and it would be very difficult for him to refund the amount of recovery assessed by the department.
6. The Hon'ble Supreme Court in the matter of **Rafiq Masih (supra)** has held in para-18 which reads as under :-

“18. 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 hereinabove, 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. Taking into consideration the facts discussed-above and the law laid down by the Hon’ble Supreme Court, order Annexure P/1 dated 11.12.2020 is hereby **quashed**. The amount, if any, recovered shall be refunded to the petitioner forthwith with interest at the rate of 6% per annum.
8. Accordingly, instant petition is hereby **allowed**.

Sd/-
(Rakesh Mohan Pandey)
JUDGE