



2026:CGHC:9770



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 270 of 2026

1. Angleshwar Banjara S/o Ravidas Banjara Aged About 54 Years Working As Head Constable No. 316 And Posted At P.S. Ajak Mungeli, District Mungeli, C.G. R/o Deendayal Colony, Bilaspur, District : Bilaspur, Chhattisgarh
2. Domru Singh Dhruwe S/o Ramcharan Dhruwe Aged About 44 Years Working As Head Constable No. 319 And Posted At P.S. Lalpur, District Mungeli C.G. R/o Village Nawagaondayali, House No. 6 Mungeli Dindori, District : Mungeli, Chhattisgarh

... Petitioners

versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Home / Police, Mahanadi Bhawan, Atal Nagar, Mantralaya, New Raipur, District : Raipur, Chhattisgarh
2. Director General Of Police (D G P) Police Head Quarter, Near Mahanadi Mantralaya Police Station and Post Rakhi, Atal Nagar, Mantralaya, New Raipur, District : Raipur, Chhattisgarh
3. Inspector General Of Police Bilaspur, District Bilaspur (CG)
4. Superintendent Of Police Mungeli, District : Mungeli (CG)

... Respondents

For Petitioners : Mr. Banhiman Das, Advocate

For Respondents : Mr. Abhishek Singh, Panel Lawyer



S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order On Board

24/2/2026

1. Petitioners have filed this petition seeking following reliefs:-

- “(I) That, this Hon’ble Court may kindly be pleased to set aside the impugned order dated 24.06.2025 (Annexure P-1) issued by the respondent No.4, in the interest of justice.
- (ii) That, this Hon’ble Court may kindly be pleased to direct the respondent authorities to refund the recovered amount of the petitioners with interest within stipulated time as per similar direction of this Hon’ble Court dated 24.06.2025 (Annexure P-3), in the interest of justice.
- (ii) Any other relief which may be suitable in the facts and circumstances of the case, may also be granted.”

2. Learned counsel for petitioners submits that petitioners are Class III employees working as Head Constable and posted in District Mungeli. Respondent No.3 passed the order on 24.6.2025 granting permission to recover Rs.1,65,410/- and R.s1,41,965/- from the petitioners on the ground that excess amount of salary due to wrong fixation of pay-scale has been paid to petitioners during the period from 24.9.2007 to 31.5.2025 and 01.07.2011 to 31.5.2025 respectively. He contended that the impugned order directing recovery from Class III employees is not permissible in view of decisions of **State of Punjab & ors vs. Rafiq Masih (White Washer) &**



ors, reported in (2015) 4 SCC 334 and order dated 22.9.2021 passed in WA No.264/2020 (State of Chhattisgarh vs. Labha Ram) and other connected matters.

3. Learned State Counsel does not dispute submission of learned counsel for petitioners that petitioner are holding Class-III post i.e. Head Constable. He, however, submits that excess salary is paid to petitioners due to wrong fixation of pay and said mistake is disclosed to the officials only when objection is being raised by the Treasure and Accounts Office. He submits that if payment is made to employee due to mistake of authorities concerned, it can be recovered and in support thereof, he places reliance on decision of Hon'ble Supreme Court in case of **Chandi Prasad Uniyal and others Vs. State of Uttarakhand and others**, reported in (2012) 8 SCC 417.
4. Heard learned counsel for the parties and perused the documents available in record of writ petition.
5. The issue regarding recovery from the employees either in service or after attaining the age of superannuation is no more *res integra* and has been settled in the case of **Rafiq Masih (supra)** wherein Hon'ble Supreme Court in Para-18 has postulated certain categories and observed that recovery from them is impermissible. Paragraph 18 is quoted below for ready reference:-



"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 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."

6. The Division Bench of this Court in case of **Labha Ram**

Dhruv (Supra) and observed thus:



“9.In the case at hand, the Revision of Pay Rules, 2009 and 2017 do not make any enabling provision reserving option for the employer to seek refund of the amount paid in excess, by making the employee to furnish an undertaking. Even if we conclude, for the sake of arguments, that even in the absence of enabling provision under the Rules, undertaking given by the employee would operate, the fact remains that against the classes of employees against whom recovery would be impermissible in law, as held by the Hon’ble Supreme Court in the matter of Rafiq Masih (Supra), recovery from the employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service) would still be impermissible in law. Meaning thereby that even when undertaking is submitted by the employee, but he otherwise belongs to Class-III and Class-IV service, and the amount has been paid more than 5 years back, the law declared by the Hon’ble Supreme Court in the matter of Rafiq Masih (Supra) would still hold the field in favour of such employees, because the judgment in the matter of Rafiq Masih (Supra) has not been overruled, but only clarified, by the Hon’ble Supreme Court in its later judgment in the matter of Jagdev Singh, Supra”

7. Decision in case of Rafique Masih (supra) is relied upon by Hon’ble Supreme Court in case of **Thomas Daniel V. State of Kerala & ors, reported in (2022) LiveLaw (SC) 438.**

Relevant part of the decision in Thomas Daniel (supra) reads as under:-

“13.In **State of Punjab and Others v. Rafiq Masih (White Washer) and Others**⁴ wherein this court examined the validity of an order passed by the State to recover the monetary gains wrongly extended to the beneficiary employees in excess of their entitlements without any fault or misrepresentation at the behest of the recipient. This Court considered situations of hardship caused to an employee, if



recovery is directed to reimburse the employer and disallowed the same, exempting the beneficiary employees from such recovery.....”

(14) Coming to the facts of the present case, it is not contended before us that on account of the misrepresentation or fraud played by the appellant, the excess amounts have been paid. The appellant has retired on 31.03.1999. In fact, the case of the respondents is that excess payment was made due to a mistake in interpreting Kerala Service Rules which was subsequently pointed out by the Accountant General.

(15) Having regard to the above, we are of the view that an attempt to recover the said increments after passage of ten years of his retirement is unjustified.”

8. From perusal of the above it is clear that the recovery from the employees belonging to Class-III and Class-IV category (or Group 'C' and Group 'D' service) is impermissible in law. Meaning thereby that even if undertaking is submitted by the employee, but he otherwise belongs to Class-III or Class-IV service, recovery of excess amount paid from him/her is impermissible.
9. In the case at hand, admittedly, petitioners are working on the post of Class-III cadre 'Head Constable' in the Police Department. It is also not the case of respondents that petitioners had received excess payment by practicing fraud or by making misrepresentation. Perusal of recovery order (Annexure P-1) would show that recovery is due to excess salary paid to petitioner due to wrong fixation of pay. Thus, petitioners cannot be compelled to refund the amount which



has been paid by the respondents on their own without any misrepresentation or fraud on the part of petitioners. Permitting recovery will be harsh upon the petitioners.

10. Consequently, writ petition is allowed. Impugned order of recovery dated 24.6.2025, so far as it relates to petitioners herein, is quashed. If recovery is already made, respondents are directed to refund the amount so recovered to petitioners within a period of four months from the date of receipt of copy of order, failing which aforesaid amount shall carry interest @ 6% per annum till actual date of payment.
11. Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-