



2026:CGHC:18245
NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 821 of 2026

1. Prem Shankar Singh S/o Late Veer Bahadur Singh Aged About 61 Years R/o Civil Lines Simga Ward No. 08, Near Police Station, District : Balodabazar-Bhathapara (CG)

... Petitioner

versus

1. State of Chhattisgarh Through The Secretary, Govt. of Chhattisgarh, Department Of Home, Nawa Raipur Atal Nagar, Chhattisgarh
2. Director General Of Police Headquarters, Sector-19, Nawa Raipur Atal Nagar, Chhattisgarh
3. Superintendent Of Police Balodabazar, District : Balodabazar-Bhathapara, Chhattisgarh
4. Joint Director Treasury Accounts And Pensions, Indrawati Bhawan, Nawa Raipur Atal Nagar, Chhattisgarh

... Respondent(s)

For Petitioner	:	Mr. Tanuj Patwardhan, Advocate
For Respondents	:	Mr. Hariom Rai, Panel Lawyer

SB: Hon'ble Mr. Justice Part Prateem Sahu

Order on Board

21/04/2026

1. Challenge in this writ petition is to the order dated 07.11.2025 by which respondent No.3 directed for recovery of Rs.1,93,930/- from petitioner which was erroneously paid to him on account of wrong pay fixation.



2. Learned counsel for petitioner would submit that petitioner is working as Head Constable in the Police Department, which is a Class III cadre post, and with the passage of time, he has been extended benefit of revision of pay scale. All of a sudden, vide order impugned dated 7.11.2025, respondent No.3 has directed for recovery of Rs.1,99,930/- from petitioner on the ground that excess payment is made to him due to wrong pay fixation. He submits that alleged excess amount of salary has been paid to petitioner on account of wrong pay-fixation, which was done by the respondents, and therefore, petitioner cannot be held responsible in any manner. He further submits that petitioner being a Class III employee, respondents are not entitled to recover amount which was erroneously paid to petitioner, without any misrepresentation or fraud on his part. In support of his submission, he places reliance on decision of Hon'ble Supreme Court in case of **State of Punjab & ors vs. Rafiq Masih (White Washer) & ors**, reported in **(2015) 4 SCC 334** and **Thomas Daniel V. State of Kerala & ors**, reported in **(2022) LiveLaw (SC) 438**.
3. He further submits that even if at any point of time, petitioner has given consent for recovery of amount if paid in excess, then also excess amount cannot be recovered from salary of petitioner being a Class-III employees. In support of his



submission, he places reliance on the order passed by the Division Bench of this Court in WA No.264/2020 (State of CG vs Labha Ram Dhruv) and WA No.265/2020 (State of CG and others vs. Roshan Lal Baghel). He lastly contended that the entire recovery is made without any notice or opportunity of hearing and is patently illegal being in violation of principles of natural justice.

4. Learned State Counsel would submit that petitioner was mistakenly paid excess salary on account of wrong pay fixation and therefore, the same has been ordered to be recovered. He further submits that petitioner had submitted undertaking mentioning that if any payment is made to him in excess, he will return the same or the authorities will be at liberty to recover it from him. Therefore, the petitioner is now estopped from challenging the impugned recovery order. In support of his contention he places reliance on judgment rendered in case of High Court of Punjab and Haryana & ors vs Jagdev Singh, reported in (2014) 14 SCC 267
5. Heard learned counsel for parties and perused the documents available in record of writ petition.
6. In the case of **Rafiq Masih (supra)**, Hon'ble Supreme Court considering the issue of recovery of amount paid in excess has summarized the situations where in certain cases even



recovery from the employee by the employer would not be permissible in law. In Para-18 it was observed thus:-

"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."

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) Live Law (SC) 438**, relevant portion of decision of which 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. In case of **Jagdev Singh (supra)**, Hon'ble Supreme Court though had considered the issue with regard to the undertaking, however, Para-10 (i) of the decision in case of Rafiq Masih (supra) has not been overruled or interfered.
9. Thus, 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. In the case at hand, perusal of recovery letter



(Annexure P-1) would show that recovery is due to excess salary paid to petitioner due to excess payment towards salary. Petitioner is admittedly working on the post of Class-III cadre in the Police Department. It is also not the case of respondents that petitioner had received excess payment by practicing fraud or by making misrepresentation. Hence, petitioner cannot be compelled to refund the amount, as mentioned in impugned order, which has been paid by the respondents on their own without any misrepresentation or fraud on the part of petitioner.

10. So far as undertaking submitted by petitioner during course of employment is concerned, the Division Bench of this High Court in **Labha Ram Dhruv** (supra), while considering the issue of undertaking has held that giving of such an undertaking is not a voluntary act and recovery on that basis, therefore, cannot be sustained. Para-9 of order passed in Labha Ram's case (supra) reads 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."

11. In light of above decisions and in the given facts and circumstances of the case, in the considered opinion of this Court, the respondents cannot be permitted to effect recovery from the petitioner of the amount paid in excess and being so, recovery against petitioner is not sustainable.
12. Consequently, writ petition is allowed. Impugned order of recovery dated 7.11.2025, Annexure P-1, passed against petitioner is hereby quashed. If recovery is already made, respondents are directed to refund the amount so recovered to petitioner 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.
13. Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-