



2026:CGHC:9720

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1120 of 2025

Chitrarekha Uikey W/o Late Indrajit Uikey Aged About 28 Years Working As
Peon At O/o The District Treasury Balod District - Balod (C.G.)

... **Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Its Secretary Accounts And Treasury
Department Mahanadi Bhawan Mantralaya Nawa Raipur Atal Nagar District-
Raipur (C.G.)

2 - The Divisional Joint Director Account And Pension Durg District - Durg
(C.G.)

3 - The District Treasury Officer Office Of District Treasury Blod District - Blod
(C.G.)

... **Respondent(s)**

For Petitioner(s) : Mr. Rajesh Kumar Kesharwani, Advocate

For Respondent(s) : Mr. Khulesh Sahu, P.L.

(HON'BLE SHRI JUSTICE PARTH PRATEEM SAHU)

Order on Board

24/02/2026

1. Petitioners have filed this petition seeking following relief (s) :-

“10.1 That, this Hon'ble Court may kindly be pleased to
quash/set aside impugned recovery letters, dated
06.01.2025 & 09.01.2025 (Annexure-P/1) in the ends of
justice.

10.2 That, the Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus or suitable direction to the respondent authorities to release the death-cum retirement gratuity amount payable to the petitioner with @ 18% penal interest till the realization of the payment.

10.3 That, the Hon'ble Court may kindly allow any other relief as deem fit and proper.”

2. Learned counsel for the petitioner submits that the husband of the petitioner while working on the post of AG-III and posted in the office of District Treasury Balod, died in harness on 03.07.2023. Respondent authorities only thereafter, had issued a letter to the petitioner i.e. widow of the deceased employee, asking her to give consent for recovery of the excess payment made to husband of the petitioner, during his life time, said action on the part of the respondents is arbitrary and illegal. He contended that as the petitioner has not given consent as sought for by the respondents, the entire death-cum retiral dues of the petitioner has been withheld. It is contention of counsel for the petitioner that, as the recovery of an amount paid in excess to an employee towards the salary, it cannot be recovered after his death from death-cum retiral dues. He placed reliance upon decision of Hon'ble Supreme Court in the case of State of Punjab v. Rafiq Masih (White Washer) etc. reported in (2015) 4 SCC 334, to support his contention.
3. Counsel for the respondent would submit that excess payment is paid to the late husband of the petitioner due to wrong fixation of pay, the amount paid in excess is a loss to the Government ex-chequer, and therefore, the proceedings have been initiated for recovery of the said amount.
4. Upon asking learned counsel for the respondent, as to whether, any

proceedings was earlier initiated in the life time of the husband of the petitioner for recovery, he fairly submitted that no such pleadings has been made in the reply nor any document is enclosed in this regard.

5. I have heard learned counsel for the parties.

6. Hon'ble Supreme Court in case of Rafiq Masih (supra) has considered as to in which circumstances, the recovery from an employee is permissible and 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. In the case of *Thomas Daniel v. State of Kerala*, 2022 SCC OnLine SC

536 (decided on 02-05-2022), the Hon'ble Supreme Court relying upon its earlier decision in the case of Rafiq Masih (supra) has observed that the State cannot recover excess amount paid to the employee after long delay.

8. In case of Smt. Shail Gaur v. State of Chhattisgarh decided by this Court vide order dated 21.04.2015, has observed in Para 6, 7 and 8 as under:

“6. In Syed Abdul Qadir and others vs. State of Bihar and others [(2009) 3 SCC 475] : (2009 AIR SCW 1871), the Supreme Court restrained the department from recovery of excess amount paid by holding thus :

“Undoubtedly, the excess amount that has been paid to the appellants – teachers was not because of any misrepresentation or fraud on their part and the appellants also had no knowledge that the amount that was being paid to them was more than what they were entitled to. It would not be out of place to mention here that the Finance Department had, in its counter-affidavit, admitted that it was a bonafide mistake on their part. The excess payment made was the result of wrong interpretation of the rule that was applicable to them, for which the appellants cannot be held responsible. Rather, the whole confusion was because of inaction, negligence and carelessness of the officials concerned of the Government of Bihar. Learned Counsel appearing on behalf of the appellants-teachers submitted that majority of the beneficiaries have either retired or are on the verge of it. Keeping in view the peculiar facts and circumstances of the case at hand and to avoid any hardship to the appellants-teachers, we are of the view that no recovery of the amount that has been paid in excess to the appellants-teachers should be made.”

7. While holding in Chandi Prasad Uniyal (supra) that any amount paid/received without authority of law can always be recovered and the concept of fraud or misrepresentation is not applicable in such situation, the Supreme Court has clearly laid down the exceptions to the rule and the exceptions mentioned in the Judgment of Col. B.J. Akkara (Retd.) (supra) and Syed Abdul

Quadir (supra) has been referred with approval. One of the exceptions carved out by the Supreme Court in the matter of Syed Abdul Qadir (supra) is that where the beneficiary of excess payment has either retired or is on the verge of it, to avoid any hardship to such employees/teachers, the recovery was quashed.

8. In the present case also the husband of petitioner died on 22.12.2013. Steps for recovery of excess payment made to the petitioner on account of retiral dues were initiated after the death of her husband. Therefore, the case clearly falls within the exception carved out by the Supreme Court in the matter of Syed Abdul Qadir's case (supra) and approved in Chandi Prasad Uniyal (supra). If I may say so, the case in hand is on a better footing because the amount is recovered from the widow of the deceased employee."

9. In the aforementioned case also Court has considered the recovery of the excess payment made to the deceased employee, from his widow.
10. For the foregoing reasons, the recovery letter dated 06.01.2025 and 09.01.2025 (Annexure-P/1) is not sustainable in the eyes of law and accordingly, it is held that no recovery can be made from the petitioner. The respondents are directed to release the entire death-cum retiral dues in favour of the petitioner within a period of two months from the date of receipt of the Order, failing which the said amount shall further carry interest @ 8 % till its realization.
11. With the aforesaid observation and direction, the writ petition stands disposed of.

Sd/-

(Parth Prateem Sahu)
JUDGE