



2026:CGHC:474



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1584 of 2020

- Shital Prasad Kaushik S/o Bhukhan Lal Kaushik, Aged About 62 Years, Retired Upper Division Teacher, R/o Village Pipartarai, Police Station Kota, District Bilaspur, Chhattisgarh.

... Petitioners

versus

1. State of Chhattisgarh, Through The Secretary, Department of School Education, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. Accountant General, Chhattisgarh Raipur, District Raipur, Chhattisgarh.
3. Joint Director Treasury, Account And Pension, Bilaspur Division, District Bilaspur, Chhattisgarh.
4. District Treasury Officer, Bilaspur, District Bilaspur, Chhattisgarh.
5. District Education Officer, District Bilaspur, Chhattisgarh.
6. Block Education Officer, Kota, District Bilaspur, Chhattisgarh.

... Respondents

For Petitioner :- Mr. Govind Dewangan, Advocate.

For State :- Mr. Rahul Tamaskar, Government Advocate.

SB- Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05.01.2026

1. This writ petition is directed against the order dated 27.02.2020 (Annexure P/1) by which recovery of an amount of ₹1,28,455/-



has been issued which was paid to the petitioner from 02.07.2010 to 30.06.2019.

2. Mr. Govind Dewangan, learned counsel for the petitioner, would submit that recovery of excess payment for the period from 02.07.2010 to 30.06.2019 has been made on account wrong calculation whereas the issue involved in the present case is covered by the decision of the Supreme Court in the matter of **State of Punjab v. Rafiq Masih (White Washer)**¹ and, therefore, the instant petition deserves to be allowed.
3. Mr. Rahul Tamaskar, learned State counsel, would oppose the prayer made by learned counsel for the petitioner and support the impugned order
4. I have heard learned counsel for the parties, considered their rival submissions made herein-above and gone through the records precisely.
5. Before considering the case of the petitioner it would be appropriate to notice the decision rendered by the Supreme Court **Rafiq Masih** (supra) in which their Lordships of the Supreme Court in paragraph No.18 have held 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

¹ (2015) 4 SCC 334



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 the retired employees, or employees who are due to retire within one year, of the order of recovery.
- (iii) Recovery from the 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. Coming to the facts of the present case in light of principles of law laid down by their Lordships of the Supreme Court in the above-stated judgment (supra), it is quite vivid that the recovery from the employees to whom excess payment has been made for a period in excess of five years, before the order of recovery is issued is impermissible in law. In the instant case, petitioner was a Class-III employee, who retired from service on 30.06.2019 and excess payment has been made effective since 02.07.2010, more



than 9 years have been completed before the recovery order was passed as the recovery order was issued on 27.02.2020. As such, the principles of law laid down by their Lordships of the Supreme Court in the matter of Rafiq Masih (supra) is squarely applicable in the present case and, therefore, the impugned order of recovery of amount of ₹1,28,455/-, is hereby quashed.

7. Accordingly, the writ petition is allowed to the extent indicated herein-above.

Sd/-
(Sanjay K. Agrawal)
Judge

Ankit