



2026:CGHC:13556



2026:CGHC:13556

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3557 of 2021

* - Kamalkishor Gangaber S/o Chowa Ram Gangaber Aged About 58 Years Working As Head Master , Government Primary School Borirkala, District : Balod, Chhattisgarh

--- **Petitioner**

Versus

1 - State Of Chhattisgarh Through The Secretary Department Of School Education Mantralaya Mahanadi Bhawan Atal Nagar, Raipur, District : Raipur, Chhattisgarh

2 - Principal Secretary Department Of Finance Mahanadi Bhawan, Atal Nagar, Raipur Chhattisgarh.

3 - District Education Officer District Balod, Chhattisgarh.

4 - Block Education Officer Gurur District Balod Chhattisgarh.

--- **Respondents**

And

WPS No. 3624 of 2021

* - Bal Singh Mandavi S/o. Abhay Ram Mandavi Aged About 46 Years Working As Head Master, Govt. Girls Middle School Sorar, District : Balod, Chhattisgarh

---**Petitioner**

Versus

1 - State Of Chhattisgarh Through The Secretary, Department Of School Education Mantralaya, Mahanadi Bhavan, Atal Nagar, Raipur, District : Raipur, Chhattisgarh

2 - Principal Secretary Department Of Finance, Mahanadi Bhavan, Atal Nagar, Distt, Raipur, Chhattisgarh.

3 - District Education Officer Distt. Balod, Chhattisgarh.

4 - Block Education Officer Gurur, District Distt. Balod, Chhattisgarh

--- **Respondents**

And

**WPS No. 3635 of 2021**

* - Jageshwar Lal Sahu S/o Damarsingh Aged About 57 Years Working As Head Master, Government Middle School Khertha, District : Balod, Chhattisgarh

---Petitioner

Versus

1 - State Of Chhattisgarh Through The Secretary Department Of School Education Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur District : Raipur, Chhattisgarh

2 - Principal Secretary Department Of Finance Mahanadi Bhavan, Atal Nagar, District Raipur Chhattisgarh.

3 - District Education Officer District Balod, Chhattisgarh.

4 - Block Education Officer Gurur, District Balod, Chhattisgarh.

--- Respondents

For Petitioners	:	Mr. Naveen Nirala, Advocate
For Respondents/State	:	Mr. Amandeep Singh, Panel Lawyer

Hon'ble Shri Justice Rakesh Mohan Pandey
Order on Board

20/03/2026

1. The petitioners have filed these petitions seeking the following relief(s):-

“**10.1** That, petitioners most respectfully pray that this Hon'ble Court may kindly be pleased to set aside/quash the impugned recovery order(s) dated 14.06.2021 (**ANNEXURE P/1**).

10.2 That, petitioners most respectfully pray that this Hon'ble Court may kindly order writ of appropriate nature directing the respondents to continue the salary as per increased pay grade, prohibiting recovery and without any deduction.

10.3 Any other relief or reliefs that may be deemed fit proper in the facts and circumstances of the case may also be kindly granted.”



2. **WPS No. 3557 of 2021:** The petitioner was working on the post of Head Master, Government Primary School, Borirkala, District Balod (C.G.), who has got retired from service on account of superannuation. An order of recovery to the tune of Rs. 92,410/- (Rupees Ninety Two Thousand Four Hundred and Ten Only) was issued by respondent No. 4 on 14.06.2021 on account of wrong fixation of pay scale of the petitioner and it continued for period from 18.04.2007 to 31.12.2016. The mistake was detected during verification of account by the office of Treasury, Accounts and Pension after more than 13 years.
- WPS No. 3624 of 2021:** The petitioner is working on the post of Head Master, Government Girls Middle School, Sorar, District Balod (C.G.), who is still in service. An order of recovery to the tune of Rs. 33,704/- (Rupees Thirty Three Thousand Seven Hundred and Four Only) was issued by respondent No. 4 on 14.06.2021 on account of wrong fixation of pay scale of the petitioner and it continued for period from 01.07.2007 to 31.12.2016. The mistake was detected during verification of account by the office of Treasury, Accounts and Pension after more than 13 years.
3. **WPS No. 3635 of 2021:** The petitioner was working on the post of Head Master, Government Middle School, Khertha, District Balod (C.G.), who has got retired from service on account of superannuation. An order of recovery to the tune of Rs. 1,25,181/- (Rupees One Lakh Twenty Five Thousand One Hundred and Eighty One Only) was issued by respondent No. 4 on 14.06.2021 on account of wrong fixation of pay scale of the petitioner and it continued for period from 28.02.2007 to 30.06.2017. The mistake was detected during verification of account by the office of Treasury, Accounts and Pension after more than 13



years.

4. Mr. Naveen Nirala, learned counsel appearing for the petitioners argued that order of recovery has been passed against government Class III retired employees (WPS No. 3557/2021 & WPS No. 3635/2021) and the employee who is still in service (WPS No. 3624/2021), and there was no misrepresentation on their part. It is also contended that the mistake was detected by department after long 13 years and thus, the case of the petitioners is squarely covered with the judgment passed by the Hon'ble Supreme Court in the matter of ***State of Punjab and Others v. Rafiq Masih (White Washer), (2015) 4 SCC 334.***
5. The learned State counsel opposes the pleadings and submits that on account of erroneous fixation of pay, excess payment was made to the petitioners and during verification, the Joint Director, Treasury, Accounts & Pension, Durg Division, District Durg (C.G.) raised objection, pursuant to which order(s) of recovery against the petitioners has been issued.
6. Heard learned counsel for the parties and perused the documents placed on record.
7. The Hon'ble Supreme Court in the case of ***Rafiq Masih*** (supra), while dealing with the issue of recovery of excess payment from employees, has held in paragraph 18 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 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. "

8. In the present case, the petitioners were Head Master, which is Class-III post, and the impugned recovery orders have been issued on account of wrong fixation of pay and excess payment made. The petitioners were never at fault, nor were they party to the process of fixation. The recovery is being made after more than 13-14 years of



such payment. Therefore, the case of the petitioners is squarely covered by clauses (i) (ii) and (iii) of paragraph 18 of the aforesaid judgment of **Rafiq Masih** (supra).

9. In view of the above discussion and in the light of the law laid down by the Hon'ble Supreme Court in **Rafiq Masih** (supra), the recovery orders dated 14.06.2021 (Annexure P/1) are hereby quashed.
10. It is directed that if any amount has already been recovered from the petitioners pursuant to the said order, the same shall be refunded to them forthwith, preferably within a period of three months from the date of receipt of a copy of this order.
11. With the aforesaid observations and directions, these writ petitions stand **allowed**. No order as to costs.

Sd/-

(Rakesh Mohan Pandey)
Judge