



2026:CGHC:10378

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 3198 of 2020**

1 - Punchram, S/o Late Shri Laxman Prasad, Aged About 62 Years R/o Village - Semra, Post And Police Station - Gidhouri, Tahsil - Kasdol, District Balodabazar - Bhatapara Chhattisgarh.,

... Petitioner(s)**versus**

1 - State Of Chhattisgarh, Through Its Secretary, Department Of Home (Police), Mahanadi Mantralaya, Police Station And Post - Rakhi, Atal Nagar, New Raipur, District - Raipur Chhattisgarh.,

2 - Director General Of Police (D.G.P.), Police Headquarters (P H Q), Near Mahanadi Mantralaya, Police Station And Post - Rakhi, Atal Nagar, New Raipur, District - Raipur Chhattisgarh.,

3 - Upper Director, Police Headquarters (P H Q), Near Mahanadi Mantralaya, Police Station And Post - Rakhi, Atal Nagar, New Raipur, District - Raipur Chhattisgarh.,

4 - Superintendent Of Police (S P), Office Of Superintendent Of Police, Janjgir - Champa, District - Janjgir - Champa Chhattisgarh.,

... Respondent(s)

For Petitioner(s) : Shri Abhishek Pandey, Advocate.

For Respondent(s) : Shri Sharad Mishra, Panel Lawyer.



(Single Bench)
Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

27/02/2026

1. The petitioner has filed this Writ Petition under Article 226 of the Constitution of India calling in question the legality, validity and correctness of the order dated 15.6.2020 (Annexure-P/2) passed by respondent No.4 i.e. Superintendent of Police, Janjgir-Champa by which recovery of amount of Rs.1,05,004/- has been directed to be made from the petitioner.
2. Learned counsel for the petitioner would submit that the case of the petitioner is covered by the decision of the Hon'ble Supreme Court in the matter of **State of Punjab and Others Vs. Rafiq Masih (White Washer) and Others**¹ and, therefore, the impugned order (Annexure-P/2) is liable to be quashed.
3. On the other hand, learned State Counsel would support the impugned order.
4. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
5. Admittedly, the petitioner is a Class-III employee and has retired from service after attaining the age of superannuation on 31.8.2020 and the impugned order was passed on 15.6.2020

¹ (2015) 4 SCC 334 : 2015 AIR SCW 501



stating that pay fixation of the petitioner from 5.1.2001 to 31.5.2020 was erroneously done.

6. In this regard, the Hon'ble Supreme Court in the matter of **Rafiq Masih (White Washer)** (Supra) has held at para-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 the 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 said matter, their Lordships of the Supreme Court have also held that if the mistake of making a wrongful payment is detected within five years, it would be open to the employer to recover the same. However, if the payment is made for a period in excess of



five years, even though it would be open to the employer to correct the mistake, it would be extremely iniquitous and arbitrary to seek a refund of the payments mistakenly made to the employee.

8. A careful perusal of the impugned order would show that the subject recovery was ordered for a period from 5.1.2001 to 31.5.2020 which was in excess of five years and, therefore, it is extremely iniquitous and arbitrary to seek a refund of the payment wrongly made to the employee.
9. In that view of the matter, this Court is of the opinion that the impugned order dated 15.6.2020 (Annexure-P/2) is not sustainable and the same is hereby quashed.
10. For the foregoing, the Writ Petition is allowed to the extent indicated above. No costs.

Sd/-
(Sanjay K. Agrawal)
Judge