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NADIM MOHLE



2025:CGHC:39635

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3823 of 2021

Smt. Maya Bajpai W/o Shri Devendra Kumar Bajpai Aged About 64 Years Occupation- Retired Upper Division Teacher, R/o Near Shiv Mandir, Ganga Nagar, Sector-2, Bilaspur, District- Bilaspur, Chhattisgarh.

... Petitioner

versus

- 1-** State of Chhattisgarh, through Secretary, School Education Department, Mahanadi Bhawan, New Mantralaya, Atal Nagar, District- Raipur, Chhattisgarh.
- 2-** The District Education Officer, Bilaspur, District- Bilaspur, Chhattisgarh.
- 3-** The Block Education Officer, Bilha, District- Bilaspur, Chhattisgarh.
- 4-** The Joint Director, Treasury, Account And Pension, Bilaspur, District- Bilaspur, Chhattisgarh.

... Respondent(s)

For Petitioner :	Mr. Shayon Kar, Advocate, on behalf of Mr. Prakash Tiwari, Advocate
For State :	Mr. Shubham Bajpai, Panel Lawyer

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

07.08.2025

- 1) The petitioner has filed this writ petition challenging the legality, validity, and propriety of the order dated 21.05.2020 (Annexure P-1) passed by respondent No. 3, whereby, after her retirement, she was directed to deposit a sum of

₹1,72,786/- towards the alleged excess payment made to her during the course of her service.

- 2) Learned counsel for the petitioner would submit that immediately after the retirement of the petitioner on 31.01.2020, the respondent authorities withheld all retiral benefits, including the final pension, on the pretext of the impugned order. It is submitted that the petitioner preferred W.P.(S) No. 4178/2020 before this Court, which was disposed of vide order dated 20.10.2020, directing the respondents to finalize and release all retiral dues. Pursuant to the said order, though retiral dues were released, a deduction of ₹1,72,786/- was made without issuing any show cause notice or affording any opportunity of hearing to the petitioner.
- 3) It is contended that the petitioner was a Class-III employee of the Education Department and had retired from the post of Upper Division Teacher. The impugned order does not mention from which date the alleged excess payment is claimed to be recoverable, nor does it disclose the reason for such recovery. It is further submitted that the State Government, vide notification dated 06.07.2015 / 08.07.2015, has specifically directed that where there is no fraud or misrepresentation on the part of the employee, no recovery of excess payment can be made.
- 4) Learned counsel further submits that the respondent authorities have ignored the above notification. He has placed reliance on the judgment rendered by the

Hon'ble Supreme Court in the matter of ***State of Punjab & Ors. v. Rafiq Masih (White Washer) & Ors. (2015 AIR SCW 501)***, wherein certain categories of employees have been protected from such recoveries.

- 5) On the other hand, learned State counsel would support the impugned order and submit that the excess payment was detected during the verification of service records and, therefore, the department was justified in recovering the same.
- 6) I have heard learned counsel for the parties and perused the documents placed in the file.
- 7) From a perusal of documents, it is evident that there is no allegation of fraud or misrepresentation against the petitioner in securing the payments in question.
- 8) The Hon'ble Supreme Court in the matter of ***Rafiq Masih (supra)*** in para 18 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 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. "

9) In the present case, the petitioner is a retired Class-III employee, and the alleged excess payment continued for over 16 years without any fault, fraud, or misrepresentation on her part; thus, this case squarely falls within situations (i), (ii), and (iii) as enumerated in ***Rafiq Masih (supra)***.

10) In view of the above, the impugned order dated 21.05.2020 (Annexure P-1) passed by respondent No. 3 directing recovery of ₹1,72,786/- from the petitioner is illegal and bad in law, thus the same is hereby quashed. Accordingly, the writ petition is **allowed**.

11) The respondents are directed to refund the amount recovered from the petitioner pursuant to the impugned order, within a period of three months from the date of receipt of a copy of this order.

Sd/-

(Rakesh Mohan Pandey)
Judge