



2026:CGHC:19871

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 3854 of 2022**

* - Kumari Anuga Singh D/o Late Shri B. Singh Aged About 62 Years R/o Vishal Nagar C-5, Telibandha, Raipur, District : Raipur, Chhattisgarh

... Petitioner**Versus**

1 - State Of Chhattisgarh Through- The Secretary, Department Of Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar, District Raipur (C.G)

2 - The Chief Medical And Health Officer, District Raipur Chhattisgarh, Department Of Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar District Raipur (C.G.)

3 - The Principal Government A.N.M. Training Center, Raipur Chhattisgarh Tikrapara, Raipur Chhattisgarh

4 - The Joint Director Treasury Accounts And Pension, Ghadi Chowk, Raipur, District Raipur (C.G.)

... Respondents

For Petitioner : Ms. Harneet Kaur, Advocate

For Respondents/State : Mr. Anmol Sharma, Panel Lawyer

Hon'ble Shri Justice Rakesh Mohan Pandey
Order on Board

29/04/2026

1. The petitioner has filed this petition seeking the following relief(s):-

"10.1 That, this Hon'ble Court may kindly be pleased to call for the entire records relating to this case.

10.2 That, this Hon'ble Court may kindly be pleased to allow the petition and ques the recovery order dated 25.01.2021 and 10.05.2022 (ANNEXURE P/1) in interest of justice.

10.3 That any other relief, which this Hon'ble Court may deem fit and proper together with cost of the petition."

2. The petitioner has filed this petition assailing the order dated 10.05.2022 issued by respondent No. 3 whereby Rs.3,61,438/- has been adjusted against amount of gratuity.
3. Ms. Harneet Kaur, learned counsel appearing for the petitioner would submit that the petitioner was working on the post of Public Health Tutor under respondent No. 3 and got retired from services on account of superannuation on 31.10.2020. She would submit that an order of recovery was issued on 25.01.2021 to the tune of Rs.3,61,438/- on the ground that the pay scale of the petitioner was wrongly fixed at higher side by virtue of grant of 03 advance increments. She would further submit that the said benefit was extended to the petitioner from 01.07.2011 which continued till 25.01.2021 till issuance of order of recovery. She would contend that the order of recovery was issued after date of retirement i.e. 31.10.2020. She would further contend that pursuant to order passed in WPS No. 2758/2021, the respondent authorities have settled entire admissible dues payable to the petitioner, but adjusted the amount of Rs.3,61,438/- against the amount of gratuity. She would submit that there was no misrepresentation on the part of the petitioner; mistake was committed by the Department; the order has been passed after 10 years, and the petitioner was a Class-III employee, therefore, the case of the petitioner is squarely covered with the judgment passed by the Hon'ble Supreme Court in the matter of ***State of Punjab v. Rafiq Masih (White Washer)*** and others reported in ***(2015) 4 SCC 334***. She would pray to allow this petition.
4. On the other hand, Mr. Anmol Sharma, learned Panel Lawyer appearing for the State/respondents would oppose.

5. Perusal of the document would reveal that the petitioner who was working on the post of Public Health Tutor, which is a Class-III post, retired from services on 31.10.2020. An order of recovery to the tune of Rs.3,61,438/- was issued on 25.01.2021 and at the same time the retiral dues were withheld and the petitioner was directed to deposit the said amount, therefore, WPS No. 2758/2021 was filed wherein direction was issued to settle entire admissible dues payable to the petitioner after adjusting the amount of Rs.3,61,438/-. The amount of recovery Rs.3,61,438/- has been adjusted against amount of gratuity payable to the petitioner. It is not a case of respondents that there was any misrepresentation or fraud played on the part of the petitioner, rather on account of mistake committed by the Department, the petitioner was extended benefit of 03 advance increments after passing degree / diploma in Nursing. It is also not disputed that the petitioner was a Class-III employee; she got retired from services and the mistake committed by the Department continued for period of 10 years, therefore, the case of the petitioner is squarely covered with the judgment passed in the matter of **Rafiq Masih** (supra).
6. In the matter of **Rafiq Masih** (supra) the Hon'ble Supreme Court has held in para-10 which reads as under:-

“10. In State of Punjab v. Rafiq Masih (Supra) this Court held that while it is not possible to postulate all situations of hardship where payments have mistakenly been made by an employer, in the following situations, a recovery by the employer 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. Taking into consideration the above discussed facts and the law laid down in the matter of ***Rafiq Masih*** (supra), the order of recovery dated 10.05.2022 (Annexure P-1) is hereby quashed. The respondent authorities are directed to refund amount of recovery Rs.3,61,438/- with interest @ 7 % per annum from date of recovery till its realization. The respondent authorities are also directed to make payment of retiral dues, if already not paid.
8. Consequently, the petition is **allowed** at admission stage.

Sd/-
(**Rakesh Mohan Pandey**)
Judge