



2026:CGHC:3462



2026:CGHC:491

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(S) No. 4442 of 2021

Shoukilaal Ljardar S/o Laxman Ljardar, aged about 63 Years, Occupation Forest Guard, R/o Beladula, Kamla Nagar, Raigarh, District Raigarh Chhattisgarh.

... Petitioner

versus

- 1 - State Of Chhattisgarh Through Secretary, Ministry Of Forest And Cultural Department, Raipur , District Raipur Chhattisgarh
- 2 - Accountant General Treasury (Account) Chhattisgarh Raipur, District Raipur Chhattisgarh
- 3 - Divisional Forest Officer Forest Division , Raigarh, District Raigarh Chhattisgarh.
- 4 - Divisional Joint Director (Treasury , Account And Pension) Bilaspur Division Bilaspur Chhattisgarh.

... Respondents

For Petitioner	: Shri Shubham Tripathi, Advocate.
For Respondent No.2	: Shri Ashwani Shukla, Advocate appeared on
	behalf of Ms. Purnima Singh, Advocate
For Respondent Nos. 1, 3 &	: Shri Rishabh Singh Deo, P.L.
4/State	

Hon'ble Shri Justice Sachin Singh Rajput

Order on Board

20.01.2026

1. Following relief has been claimed in this writ petition:-



- 10.1. That, the Hon'ble Court may kindly be quashed the Order dated 02.07.2020 (Annexure-P/1) & order dated 22.02.2021 as Anneuxre-P/2);
 - 10.2. That, the Respondent may kindly be directed to refund the amount of Rs 2,14,730/- with interest to the Petitioner without making any kind of further delay;
 - 10.3. That, any other relief which this Hon'ble Court deems fit and proper may also kindly be granted to the petitioner in the interest of justice along with cost of the petition.
2. Learned counsel for the petitioner submits that the petitioner was working as a Forest Guard with respondent Nos. 1, 3 and 4. He retired on 29/02/2020 on attaining the age of superannuation. After his retirement, the impugned order dated 02/07/2020 (Annexure P/1) was issued by Divisional Forest Officer (respondent No.3), directing the petitioner to deposit an amount of Rs.2,14,730/- towards alleged excess payment made to him. Against that order petitioner submitted a representation which was rejected by order dated 22/02/2021 (Annexure P/2). He further submits that the impugned recovery order is on account of excess payment made to the petitioner due to the wrong fixation of pay scale from 05/11/2007 till his retirement. He submits that the petitioner is a Class-III employee and the alleged excess payment was made on account of wrong fixation of pay scale. It was not on account of misrepresentation or fraud. He further submits that as the retiral dues of the petitioner had not been settled, he was constrained to deposit the entire amount through Challan (AnnexureP/4). He submits that recovery after the retirement of the petitioner cannot be made in light of judgment of Hon'ble Supreme Court in case of **State of Punjab and ors etc. Vs. Rafiq Masih (White Washer) etc., (2015) 4 SCC 334** which was subsequent by followed in the cases of **Thomas Daniel vs. State of Kerala** and others reported in **2022 SCC OnLine 536** and **Jogeswar Sahoo & Ors. Vs. The District Judge, Cuttack & ors., 2025 SCC OnLine SC 724**. He submits that impugned order deserve to be set aside.



3. Learned counsel for the State opposing the submissions of the petitioner contends that the petitioner was entitled to the pay scale of an untrained forest guard whereas he was wrongly given pay scale of Rs.3050-4590 of trained forest guard and when this mistake was realized after the retirement of the petitioner, the impugned order Annexure P/1 was passed. As there was no merit in the representation of the petitioner, the same was rejected by the impugned order dated 22/02/2021 (Annexure P/2), therefore there is no irregularity and illegality in the impugned order.
4. Learned counsel for the respondent No.2 submits that the dispute is between the petitioner and the State Government and respondent No.2 is a formal party, as no relief has been claimed against it.
5. Heard counsel for the parties and perused the record.
7. It is not in dispute that the petitioner was working as a Forest Guard which is a Class- III post. It is also not in dispute that he retired on 29/02/2020 on attaining the age of superannuation. The impugned order Annexure P/1 was passed on 02/07/2020, admittedly after the retirement of the petitioner. Perusal of the impugned order and the Chart appended clearly goes to show that some excess payment was made to the petitioner on account of wrong fixation of payment of pay scale from 05/11/2007 onward.
8. The law laid down by the Hon'ble Supreme Court in the case of **Rafiq Masih (supra)** the parameters under which circumstances recovery from Class - III and Class-IV employee is permissible in paragraph-18 is 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 here-in-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 the employees belonging to Class III and Class IV service (or Group C and Group D service);
- (ii) Recovery from the retired employees, or the 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."

9. The judgment of Hon'ble Supreme Court in the case of **Rafiq Masih (supra)** has also been followed with approval in the cases of **Thomas Daniel (supra)** and **Jogeswar Sahoo (supra)**. Thus, taking into consideration the above facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in the above cited judgments, in the opinion of this Court, the orders (Annexure P/1 and Annexure P/2) are not sustainable in law. They are accordingly hereby set aside. It is submitted by learned counsel for the petitioner the entire amount was deposited by the petitioner. It is directed that said amount be refunded to the petitioner within a period of 60 days from the date of receipt of copy of this order. The writ petition is accordingly allowed.

Sd/-

(Sachin Singh Rajput)
Judge