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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4422 of 2022

- Ramesh Singh Shrinet S/o Late Anand Singh Aged About 61 Years R/o Vinova Bhawe Ward Mungeli Ps Mungeli Tahsil And District Mungeli (C.G.)

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

- State Of Chhattisgarh Through Principal Secretary, Law Mahanadi Bhavan, Mantralaya New Raipur District Raipur (C.G.)
- District And Session Judge Bilaspur, Distt. Bilaspur (C.G.)
- District And Session Judge Mungeli Distt. Mungeli (C.G.)

... **Respondent(s)**

For Petitioner	:	Mr. Dushyant Dayal, Advocate on behalf of Mr. Dheerendra Pandey, Advocate
For State	:	Mr. Anil Pandey, G.A.
For Respondents No. 2 and 3	:	Mr. Abhijeet Mishra, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Order On Board

25.3.2026

1) By way of this petition, petitioner has sought following reliefs:-

10.1 That, this Hon'ble Court may kindly be pleased to quash the memo/ order dated 8.2.2022 Annexure P/2 as well as memo/ order dated 31.5.2020 and respondent be restrained from recovering any amount from the salary.



10.2 That this Hon'ble Court may kindly be directed to the respondent's authority to resolve the pay discrepancy of the petitioner.

10.3 Any other relief, which may deem fit and proper in the facts and circumstances of the case, may also be allowed.

2) Learned counsel for petitioner submits that petitioner is a class IV employee working on the post of Process Server at District and Sessions Court, Mungeli. He further submits that due to mistake, pay-scale admissible to the petitioner was wrongly fixed at higher side by the respondent authorities in the month of April, 2003 and it continued till October, 2016. He contends that on 8.2.2022, respondent No. 3 has taken decision to recover the excess payment of Rs.38,928/- on the ground that petitioner's salary was fixed at higher scale. He further contends that petitioner is a class-IV employee and after 16 years, mistake has been detected by the respondent authorities and thereafter, order of recovery has been issued. He argues that issue involved in present case is squarely covered by the judgment rendered by the Hon'ble Supreme Court in the matter of ***State of Punjab v. Rafiq Masih (White Washer) and others***¹.

3) On the other hand, learned counsel appearing for respective respondents submit that due to mistake, excess payment has been made to the petitioner from April, 2003 to October, 2016 and when this mistake came into knowledge of respondent authorities, order of recovery was issued. They further submit there is no

1. (2015) 4 SCC 334



infirmity in the orders impugned and this petition deserves to be dismissed.

- 4) Heard learned counsel for the parties and perused the documents placed on record.
- 5) The Hon'ble Supreme Court in the matter of **Rafiq Masih** (supra) observed that:-

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.

11. The principle enunciated in Proposition (ii) above cannot apply to a situation such as in the present case. In the present case, the officer to whom the payment was made in the first instance was clearly placed on



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notice that any payment found to have been made in excess would be required to be refunded. The officer furnished an undertaking while opting for the revised pay scale. He is bound by the undertaking.

- 6) Admittedly, petitioner is a class-IV employee and there was no misrepresentation on the part of petitioner. Further, the order of recovery has been issued after a period of 16 years.
- 7) Taking into consideration the facts of the present case and the law laid down by the Apex Court in the matter of **Rafiq Masih** (supra), communication dated 31.5.2020 (Annexure P/1) and order of recovery dated 8.2.2022 (Annexure P/2) are hereby quashed.
- 8) Accordingly, this petition stands **allowed**.

Sd/-
(Rakesh Mohan Pandey)
JUDGE

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