



2026:CGHC:32357



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5245 of 2026

Vinod Kumar Sharma S/o Late Shri Krishna Kumar Sharma Aged About 62 Years R/o Ward No.10, Imlibhata Mahasamund Near Old Vrindavan School, Farsi Gali, Mahasamund, P.S. City Kotwali, Tahsil And Distt- Mahasamund (C.G.)

... Petitioner(s)

versus

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

2 - Divisional Joint Director O/o Divisional Joint Director Treasury-Accounts And Pension Raipur Division Distt- Raipur (C.G.)

3 - Superintendent Of Police (S.P.) Office Of Superintendent Of Police (S.P.) Mahasamund District- Mahasamund (C.G.)

... Respondent(s)

(Cause title taken from CIS)

For Petitioner(s) : Shri Abhishek Pandey, Advocate along with RishabhDev, Advocate

For Respondent(s) : Shri Aditya Tiwari, Panel Lawyer



(HON'BLE SHRI JUSTICE BIBHU DATTA GURU)

Order on Board

28.07 .2026

1. By the present writ petition, the petitioner is seeking quashment of recovery order dated 11.02.2026 issued by respondent No. 2 i.e. Divisional Joint Director, Raipur District Raipur (C.G.).
2. Learned counsel for the petitioner submits that the petitioner was working on the post of Sub Inspector in the Office of the Superintendent of Police, Mahasamund. He submits that 29 days prior to his retirement, respondent No. 3 informed the petitioner that upon verification of his Service Book by the Office of the Divisional Joint Director, Treasury, Accounts and Pension, excess payment had allegedly been made due to erroneous pay fixation during his service tenure and, accordingly, his pay fixation was amended. He further submits that respondent No. 3 proposed recovery of the alleged excess amount and sought the petitioner's consent. Learned counsel for the petitioner submits that the petitioner is holding a Class-III post and that the alleged excess payment



pertains to a period exceeding five years. He further submits that excess payment made more than five years earlier and from an employee who is on the verge of retirement, is impermissible in law. In support of his submission, he places reliance on the decision of the Hon'ble Supreme Court in ***State of Punjab and Others v. Rafiq Masih (White Washer) and Others, reported in (2015) 4 SCC 334***, wherein it has been held that recovery of excess payment made due to a mistake of the employer from Class-III employees is not permissible. He also contended that the similar view has been taken by Hon'ble Supreme Court in case of ***High Court of Punjab and Haryana and others v. Jagdev Singh reported in (2016) 14 SCC 267*** and by the Division Bench of this Court in case of ***State of Chhattisgarh v. Labha Ram Dhruv*** in Writ Appeal No.264 of 2020 and also in case of ***State of Chhattisgarh and others v. Roshan Lal Baghel*** in Writ Appeal No.265 of 2020. He further submits that recovery made by the respondents from the petitioner is erroneous and not permissible and prays that the order of recovery dated 02.02.2026 be set aside and direction be issued to respondents to return back the amount recovered from the petitioner.



3. Learned State counsel opposes the submission made and submits that the order of recovery is just and proper and need no interference.
4. I have heard learned counsel for the parties and perused the pleadings and the documents annexed.
5. Hon'ble Supreme Court in case of **Rafiq Masih(supra)** has observed thus:

“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 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."



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6. In the aforementioned facts of the case, where undisputedly petitioner is holding Class-III post, recovery of the amount from petitioner is not permissible as observed by Hon'ble Supreme Court in case of Rafiq Masih (supra).
7. Considering the decision of the Hon'ble supreme Court as also the Division Bench of this Court, impugned order of recovery dated 11.02.2026 (Annexure P/2) is quashed. Respondents are directed to return back the amount, if any, recovered from the petitioner within a period of 6 months from the date of receipt of the order.
8. Accordingly, the writ petition is allowed to the above extent.

Sd/-
(BIBHU DATTA GURU)
JUDGE

Shoaib