



2026:CGHC:29845



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5325 of 2026**

Mantram Dhruw S/o Darshan Singh Dhruw, Aged About 63 Years
R/o Village - Kodwabani, Post- Mungeli, District - Mungeli (C.G.),

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

1 - State Of Chhattisgarh Through The Secretary, Department Of
School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa
Raipur, District - Raipur (C.G.)

2 - Secretary, Department Of Panchayat And Rural Development,
Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District -
Raipur (C.G.),

3 - Director, Directorate Of Public Instructions, Indravati Bhawan,
Atal Nagar, Nawa Raipur District - Raipur (C.G.)

4 - Deputy Director, Local Fund Audit, Bilaspur, District -Bilaspur
(C.G.)



2026:CGHC:29845

5 - District Education Officer, Mungeli, District - Mungeli (C.G.)

6 - Block Education Officer, Mungeli, District - Mungeli (C.G.)

... Respondent(s)

(Cause title taken from CIS)

For Petitioner(s) : Shri Pramod Ramteke, Advocate

For Respondent(s) : Shri Suyashdhar Badgaiya, Govt. Advocate

HON'BLE SHRI JUSTICE BIBHU DATTA GURU

Order on Board

15/07/2026

1. By the present writ petition, the petitioner seeks quashment of the impugned recovery order dated 11.05.2026 (Annexure P/1) issued by respondent No.6/ Block Education Officer, Mungeli, District- Mungeli (C.G.)
2. Learned counsel for the petitioner submits that the petitioner was retired from the Post of Head Master on 01.06.2025, due to an departmental error, excess salary had been paid to the petitioner for a period exceeding five years. On that basis, respondent No.6 issued the impugned recovery order dated 11.05.2026 (Annexure P/1) asking the petitioner to deposit an excess amount of Rs. 3,55,683/- paid to him from 01.05.2013



to 30.06.2018. He submits that the alleged excess payment was neither on account of any misrepresentation nor fraud on the part of the petitioner but was solely due to an error committed by the department itself. It is further submitted that the petitioner is holding a Class-III post, and the impugned recovery is squarely hit by the law laid down by the Hon'ble Supreme Court in ***State of Punjab & Others v. Rafiq Masih (White Washer), (2015) 4 SCC 334***, as recovery from a Class-III employee and recovery of excess payment made for a period exceeding five years are impermissible in law. It is, therefore, contended that the impugned recovery order is arbitrary, illegal and liable to be quashed.

3. Per contra, learned counsel for the respondents submits that at the time of pay fixation, it was found that the petitioner's pay had been erroneously fixed by clerical mistake, resulting in excess payment of salary during the course of service.
4. I have heard learned counsel for the parties and perused the pleadings as well as the material available on record.
5. The principal issue that arises for consideration in the present case is whether the respondents were justified in revising the pay fixation of the petitioner and directing recovery of an



amount of Rs. 3,55,683/- during his service period on the ground of departmental error, particularly when the petitioner was holding a Class-III post, and there is no allegation of any misrepresentation or fraud on his part. A further issue which requires consideration is whether the impugned order could have been passed without affording any opportunity of hearing to the petitioner and whether the same are sustainable in light of the law laid down by the Supreme Court in ***Rafiq Masih (Supra)***.

6. In ***Rafiq Masih (Supra)***, the Supreme 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). or

(ii) Recovery from retired employees, 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."

7. From a perusal of the record, it is not in dispute that the petitioner was holding a Class-III post. It is also not in dispute that there is no material available on record to indicate that the petitioner had obtained the alleged excess payment by practicing fraud, misrepresentation or suppression of any material fact. The excess payment, if any, appears to have



arisen on account of an act attributable to the employer.

8. In the considered opinion of this Court, the case of the petitioner squarely falls within the categories carved out by the Supreme Court in ***Rafiq Masih (Supra)***, inasmuch as the petitioner is holding a Class-III post and the alleged excess payment relates to a period much beyond preceding the issuance of the recovery order. Consequently, recovery of the alleged excess amount from the petitioner cannot be sustained in law.
9. Furthermore, the record does not disclose that any show-cause notice was issued or any effective opportunity of hearing was afforded to the petitioner prior to passing the impugned recovery order. The impugned action, therefore, also stands vitiated for non-compliance with the principles of natural justice.
10. Accordingly, the impugned recovery order dated 11.05.2026 (Annexure P/1) is hereby set aside. The respondents are directed to release and refund to the petitioner the amount, if any, recovered or withheld pursuant to the impugned recovery order. The respondents shall further ensure release of the amount already recovered, if any, payable to the



2026:CGHC:29845

petitioner. The aforesaid exercise shall be completed within a period of two months from the date of receipt of a certified copy of this order.

11. In the result, the writ petition is **allowed** to the extent indicated above.

Sd/-
(BIBHU DATTA GURU)
JUDGE

shoaib