



2026:CGHC:40226



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 6031 of 2026

Umesh Kumar Tiwari S/o Shri Hridaynarayan Tiwari Aged About 60 Years R/o
- H. No. 915, Ward No. 58, Sai Nagar, Urla Road, Durg P.O. - Durg, District -
Durg (C.G.)

Petitioner(s)

versus

1 - State Of Chhattisgarh Through Its Secretary, Animal Husbandry And
Veterinary Services, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur,
District Raipur (C.G.).

2 - Director Veterinary Services, Indravati Bhawan, Atal Nagar, Nava Raipur,
District Raipur (C.G.) **3** - Divisional/joint Director Treasury Accounts And
Pension, District - Durg (C.G.)

4 - Deputy Director Veterinary Services, District - Durg (C.G.)

5 - Chief Veterinary Surgeon Veterinary Services, District - Durg (C.G.)

6 - Senior Account Officer In The Office Of The Accountant General
(Accounts And Entitlement), Raipur (C.G.)

7 - Assistant Account Officer In The Office Of The Accountant General
(Accounts And Entitlement), Raipur (C.G.)

Respondent(s)

(Cause-title taken from CIS)

For Petitioner(s) : Mr. Achyut Tiwari, Advocate

For Resp/State : Ms. Vartika Shrivastava, PL

For Resp No. 6 & 7 : Mr. Raj Kumar Gupta, Advocate



(HON'BLE SHRI JUSTICE BIBHU DATTA GURU)

Order on Board

15.09.2026

1. By the present writ petition, the petitioner is seeking quashment of recovery order dated 13.07.2026 (Annexure-P/3) issued by respondent No. 4 i.e. Deputy Director Veterinary Services, District - Durg (C.G.)
2. Learned counsel for the petitioner submits that the petitioner is working on the post of Veterinary Field Assistant in District Durg. He submits that vide order dated 13.07.2026, respondent No. 4 informed the petitioner that upon verification of his service book by respondent No. 2, it was found that excess payment had been made to the petitioner due to erroneous pay fixation from 01st July, 2006 to 30th June, 2026, and accordingly, his pay fixation was amended. He further submits that thereafter, vide order dated 13.07.2026, respondent No. 4 issued a recovery order directing recovery of Rs. 8,07,097/- from the petitioner on account of such alleged excess payment. He further submits that the petitioner is holding Class-III post and according to the decision in case of **State of Punjab and others V. Rafiq Masih (White Washer) and others, reported in (2015) 4 SCC 334**, recovery of the payment made mistakenly to 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 13.07.2026 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.”

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 13.07.2026 (Annexure P-3) 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. It is, however,



made clear that the respondents shall be at liberty to undertake appropriate correction of the pay fixation of the petitioner, if found erroneous, in accordance with law. Such correction, however, shall not entail recovery from the petitioner of the excess amount already paid, having regard to the principles laid down by the Hon'ble Supreme Court in *Rafiq Masih (Supra)*.

8. With the aforesaid observations and directions, the writ petition stands **disposed of.**

Sd/-
(BIBHU DATTA GURU)
JUDGE

Rahul