



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA 2026:HHC:22586

**CWP No.16484 of 2025
Decided on: 17.06.2026**

Hardei	... Petitioner
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Versus

State of Himachal Pradesh and others	... Respondents
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Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹

For the petitioner:	Ms. Ayushi Sharma, Advocate, vice Mr. Prem P. Chauhan, Advocate.
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For the respondents:	Mr. Rahul Thakur, Deputy Advocate General.
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Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has, *inter alia*, prayed for the following reliefs:-

“a) Issue a writ of Certiorari or any other appropriate writ, order, or direction, quashing and setting aside the impugned order (Annexure P-1) and all consequential actions for recovery initiated against the petitioner.

b) Issue a writ of Mandamus or any other appropriate writ, order, or direction, commanding the respondents to refund the amount if recovered during the pendency of this writ petition from the petitioner, along with interest at the rate of 12% per annum from the date of recovery until the date of actual payment.

c) Issue a writ of Prohibition or any other appropriate writ, order, or direction, restraining the respondents from making any further recovery of the alleged excess amount from the petitioner's salary, pension, gratuity, or any other retiral benefits.”

2. The grievance of the petitioner is that in terms of

¹ Whether reporters of the local papers may be allowed to see the judgment?



Annexure P-1, certain recoveries have been ordered to be affected from her on the alleged ground of wrong fixation of pay, whereas there was no wrong fixation of pay, as alleged and wrong fixation, if any, was not on account of any act of omission or commission of the petitioner.

3. Learned Counsel for the petitioner argued that the petitioner was initially engaged as a Beldar on daily wage basis in the year 1998 and her services were regularized in the year 2008. The pay of the petitioner was re-fixed on 19.09.2022. After pay fixation, certain payments were made to the petitioner. However, later on, in terms of the impugned order dated 29.09.2025, the pay of the petitioner has again been re-fixed at her back and now arrears of Rs.42,500/- have been ordered to be recovered from her. She submitted that the impugned order is not sustainable as it has been passed in violation of the principles of natural justice. She further submitted that in terms of the law declared by the Hon'ble Supreme Court of *State of Punjab and Others Versus Rafiq Masih (White Washer) and Others, (2015) 4 Supreme Court Cases 334*, in certain circumstances, no recovery is permissible and this includes recovery from a Class-IV employee. She submitted that in light of the fact that the petitioner is serving as a Class-IV employee, the recovery ordered by the Authority does violence with the law declared by the Hon'ble Supreme Court of India. She accordingly, prayed that writ petition be allowed.



4. On the other hand, learned Deputy Advocate General, by referring to the reply filed by the State, has submitted that the Government of Himachal Pradesh implemented the 7th Pay Commission for the employees of State of Himachal Pradesh vide Notification dated 03.01.2022 w.e.f. 01.01.2016. He submitted that the petitioner, who was working as a Beldar, was called upon to exercise her option in terms of the said Notification and she opted for fixation of her pay under 2.59 Factor and her pay was re-fixed accordingly by respondent No.3. Before that, in the year 2017, the petitioner was given benefit of nine years ACP and was wrongly placed at Level-II instead of Level-I, which resulted in the wrong fixation of her salary and when this mistake was detected, the same was rectified in terms of Annexure P-1 and this has led to the issuance of recovery order. Learned Deputy Advocate General, thus submitted that as there indeed was over payment made to the petitioner, to which she was not entitled to, there is no infirmity in the passing of the impugned order.

5. I have heard learned Counsel for the parties and have also carefully gone through the pleadings as well as record of the case.

6. It is not in dispute that the petitioner is serving as a Class-IV employee. It is also not in dispute that Annexure P-1 has been issued by the Competent Authority without issuance of any Show Cause Notice etc.



7. Be that as it may, this Court is of the considered view that even if there was a wrong fixation of the pay of the petitioner which necessitated rectification, then also in light of the fact that the petitioner happens to be a Class-IV employee, over payment, if any, to her could not have been ordered to be recovered by the Department in light of the judgment of the Hon'ble Supreme Court of India in *State of Punjab and Others Versus Rafiq Masih (White Washer) and Others* (supra). In the said judgment, Hon'ble Supreme Court has been pleased to cull out certain circumstances under which no recovery is permissible and this includes recoveries from Class-III and Class-IV employees. As admittedly, the petitioner happens to be a Class-IV employee, recovery was not permissible from her. On this count, this petition is partly allowed. Annexure P-1 is partly quashed and set aside to the extent wherein a demand of Rs.42,500/- has been made from the petitioner. However, the re-fixation of the pay of the petitioner is not being disturbed by the Court.

8. With these observations, the petition is disposed of. It is again reiterated that no recovery shall be effected from the petitioner of Rs.42,500/- and if any recovery has been made earlier, then said amount be refunded back to her. Pending miscellaneous application(s), if any, also stand disposed of.

(Ajay Mohan Goel)
Judge

June 17, 2026
(Rishi)