

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.19 of 2025

1. The State of Tripura to be represented by the Secretary, Department of Agriculture and Farmers' Welfare, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, PIN-799010

2. The Director of Agriculture and Famers' Welfare, Govt. of Tripura, Krishi Bhavan, Agartala, West Tripura, PIN-799001

3. The Executive Engineer, Department of Agriculture and Farmers' Welfare, Agartala, West Tripura

.....Appellant(s);

Versus

1. Rekha Rani Das, Wife of Sudhir Ch. Das, Resident of Mudda Para, PS- Old Agartala, Khayerpur, PIN-799008

..... Respondent(s)

2. The Accountant General (A&E), Tripura, PO- Kunjaban, PS- New Capital Complex, Sub-Division: Sadar, District-West Tripura

3. The Senior Accounts Officer, Office of the Accountant General (A&E), Tripura, PO- Kunjaban, PS- New Capital Complex, Sub-Division: Sadar, District-West Tripura

.....Proforma Respondent(s)

WA No.20 of 2025

1. The State of Tripura to be represented by the Secretary, Department of Agriculture and Farmers' Welfare, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, PIN-799010

2. The Director of Agriculture and Famers' Welfare, Govt. of Tripura, Krishi Bhavan, Agartala, West Tripura, PIN-799001

3. The Superintendent of Agriculture, Dukli Agri Sub. Division, Agartala, West Tripura

.....Appellant(s);

Versus

1. Haripada Choudhury, Son of Lt. Naresh Bandhu Choudhury, resident of C/o Hemalata Bhavan, Vill- Madhya Badharghat, behind R.T. College, P.O. Siddhi Ashram, Agartala, West Tripura-799003

..... Respondent(s)

2. The Accountant General (A&E), Tripura, PO- Kunjaban, PS- New Capital Complex, Sub-Division: Sadar, District-West Tripura

3. The Senior Accounts Officer, Office of the Accountant General (A&E), Tripura, PO- Kunjaban, PS- New Capital Complex, Sub-Division: Sadar, District-West Tripura

.....Proforma Respondent(s)

WA No.44 of 2025

1. The State of Tripura to be represented by the Secretary, Department of Agriculture and Farmers' Welfare, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, PIN-799010
2. The Director of Agriculture and Famers' Welfare, Govt. of Tripura, Krishi Bhavan, Agartala, West Tripura, PIN-799001
3. The Executive Engineer, Department of Agriculture and Farmers' Welfare, Agartala, West Tripura

.....Appellant(s);

Versus

1. Bina Das, Wife of Badal Ch. Malakar, Resident of Chanban, Udaipur, Gomati, Tripura

.....Respondent(s)

2. The Accountant General (A&E), Tripura, PO- Kunjaban, PS- New Capital Complex, Sub-Division: Sadar, District-West Tripura
3. The Senior Accounts Officer, Office of the Accountant General (A&E), Tripura, PO- Kunjaban, PS- New Capital Complex, Sub-Division: Sadar, District-West Tripura

.....Proforma Respondent(s)

WA No.45 of 2025

1. The State of Tripura to be represented by the Secretary, Department of Agriculture and Farmers' Welfare, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, PIN-799010
2. The Director of Agriculture and Famers' Welfare, Govt. of Tripura, Krishi Bhavan, Agartala, West Tripura, PIN-799001
3. The Executive Engineer, Department of Agriculture and Farmers' Welfare, Agartala, West Tripura

.....Appellant(s);

Versus

1. Pintu Das, Son of Lt. Jagneswar Das, Resident of Mohanpur, PO Majlishpur, P.S. Ranirbazar, PIN-799035

.....Respondent(s)

2. The Accountant General (A&E), Tripura, PO- Kunjaban, PS- New Capital Complex, Sub-Division: Sadar, District-West Tripura
3. The Senior Accounts Officer, Office of the Accountant General (A&E), Tripura, PO- Kunjaban, PS- New Capital Complex, Sub-Division: Sadar, District-West Tripura

.....Proforma Respondent(s)

WA No.46 of 2025

1. The State of Tripura to be represented by the Secretary, Department of Agriculture and Farmers' Welfare, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, PIN-799010

2. The Director of Agriculture and Famers' Welfare, Govt. of Tripura, Krishi Bhavan, Agartala, West Tripura, PIN-799001

3. The Superintendent of Agriculture, Dukli Agri Sub-Division, Agartala, West Tripura

.....Appellant(s);

Versus

1. Archana Deb, Wife of Tapas Ranjan Das, Resident of Ramnagar Road No.7, P.O. Ramnagar, Road No.5, Agartala, Tripura

.....Respondent(s)

2. The Accountant General (A&E), Tripura, PO- Kunjaban, PS- New Capital Complex, Sub-Division: Sadar, District-West Tripura

3. The Senior Accounts Officer, Office of the Accountant General (A&E), Tripura, PO- Kunjaban, PS- New Capital Complex, Sub-Division: Sadar, District-West Tripura

.....Proforma Respondent(s)

For Appellant(s) : Mr. Saktimoy Chakraborti, Advocate General,
Mr. Dipankar Sarma, Addl. G.A.,
Mrs. Pinki Chakraborty, Advocate.

For Respondent(s) : Mr. Purusuttam Roy Barman, Sr. Advocate,
Mr. Debalay Bhattacharya, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Kawsik Nath, Advocate,
Mr. Soumyadeep Saha, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT

Date of hearing : **29.01.2026**

Date of Judgment & Order : **29.01.2026**

Whether fit for reporting : **YES**

JUDGMENT & ORDER (ORAL)

All these Writ Appeals arise out of a common judgment rendered by learned Single Judge on 31.01.2025 in WP(C) No.233/2024 and batch.

2. The respective respondents are all employed in the Agriculture Department of the Government of Tripura.

3. It is alleged by the appellants that while the respective respondents were in Class III post, certain excess payments had been made to them by mistake, and after such respondents had retired from service, the appellants

attempted recovery from their retiral benefits on the ground that they had given undertakings before they received the said payment that they would refund the same in the event the payment was in excess of what was due to them. It is contended that the learned Single Judge erred in restraining the appellants from doing so.

4. It is not the case of the appellants, in any of these cases, that there was any misrepresentation or fraud committed by any of the respondents to secure higher payments from the appellants. It is undisputed that the respondents mostly hold Class III posts though one or two among them were given ad-hoc promotions to Class II later.

5. The learned Single Judge, in the impugned order, opined that recovery of the amounts from the respondents on the ground of wrong fixation would be harsh, iniquitous and impermissible by following the judgment of the Supreme Court in ***State of Punjab and Others v. Rafiq Masih (White Washer) and Others***¹ wherein the Supreme Court had barred recovery from employees belonging to Class III and Class IV service.

6. The Supreme Court, in the said case, held as under:

“18. 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: (SCC pp. 334-35)

‘(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.

¹ (2015) 4 SCC 334

(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.'* (emphasis supplied)

7. The said judgment has been followed by Benches presided over by one of us (i.e. the Chief Justice) when he was posted in the High Court of Punjab and Haryana and High Court of Himachal Pradesh in the followings cases:

(i) ***Braham Dass v. The State of Himachal Pradesh and Others***²

and batch

(ii) ***Allah Ditta v. State of H.P. & Another***³

(iii) ***Bhakra Beas Management Board and another v. Jai Bhagwan***⁴

(iv) ***State of Himachal Pradesh & Others v. Ashok Kumar***⁵

8. Learned Advocate General however contends that the judgment in ***Rafiq Masih*** (1 supra) cannot be applied for the reason that each of the respondents in the appeals had given undertaking before they were paid the said amount that they would return any excess payment made to them by the appellants.

² CWPOA No.1237 of 2020, CWPOA Nos.1234, 1341, 1344 and 3739 of 2020 decided on 06.08.2024 (HP HC)

³ CWPOA No.7572 of 2020 decided on 18.09.2023 (HP HC)

⁴ LPA-2038-2019 (O&M) decided on 09.02.2023 (P & H HC)

⁵ LPA No.169 of 2023 (HP HC)

9. He relied on the judgment of the Supreme Court in ***High Court of Punjab and Haryana & Others v. Jagdev Singh***⁶.

That was a case relating to a retired Judicial Officer, who had also given an undertaking that any excess which may be found to have been paid would be refunded to the Government, either by adjustment against future payments due or otherwise.

The Supreme Court, in the said case, had denied the benefit of the judgment in ***Rafiq Masih*** (1 supra) to the said employee on the ground that since the officer was noticed in the first instance that if any payment was made in excess, it would have to be refunded, and had given undertaking to that effect, he is bound by the undertaking, and such recovery is impermissible.

10. We are of the opinion that a Judicial Officer cannot claim the benefit of the judgment in ***Rafiq Masih*** (1 supra) because he does not belong to Class III or Class IV service, and so the said judgment cannot be relied on by the appellants in regard to employees such as respondents who belong to Class III or Class IV service, in respect of excess payments made by mistake to them by the appellants when they held Class III posts.

11. Also any undertaking given by the employee, cannot estop the said employee from claiming the benefit of ***Rafiq Masih*** (1 supra) because he/she had not misrepresented or played fraud for securing such excess payment from the appellants and it would be iniquitous and harsh if he or she is made to refund the said amount.

12. Another submission made by learned Advocate General was that some of the employees had been given ad-hoc promotion from Group-C to

⁶ (2016) 14 SCC 267

Group-B posts, and though the excess payment was made when the employee was in the Group-C post, recovery is sought to be made after retirement from the retiral benefits payable to the employee, and therefore, the judgment in **Rafiq Masih** (1 supra) cannot be made applicable to such employees.

13. It is not in dispute that in respect of such of those employees who had been given promotion as Group-B (Class II) employees, the promotions given were in fact only ad-hoc promotions, and they were not regular promotions. Therefore, they continued to hold the substantive Group-C (Class III) post only even at the time of their retirement. Therefore, they cannot be denied the benefit of the judgment in **Rafiq Masih** (1 supra).

14. We therefore do not find any merit in these appeals, and they are accordingly dismissed.

15. Pending application(s), if any, shall stand disposed of.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)

Pijush/

