



CGHC010194582026



2026:CGHC:31330

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4318 of 2026

1 - Tulsi Ram Bhardwaj S/o Let Shri Sukhru Ram Bhardwaj Aged About 62 Years Ex- Sub- Inspector, R/o Village Pasid, P.O. Kirari (Baradwar) P.S. And District Sakti (C.G.)

... **Petitioner**

versus

1 - State Of Chhattisgarh Through The Secretary Department Of Home Mahanadi Bhawan Mantralaya, Naya Raipur (C.G.)

2 - The Police Commissioner District Raipur (C.G.)

3 - Superintendent Of Police Raipur, District Raipur (C.G.)

... **Respondents**

(Cause title taken from CIS)

For Petitioner	: Mr. Barun Kumar Chakrabarty, Advocates
For Respondent	: Mr. K.G. Yadav, Dy.G.A.

Hon'ble Shri Justice Bibhu Datta Guru

Order On Board

22.07.2026

- By the present writ petition, the petitioner has prayed for following reliefs:-

10.1 That, this Hon'ble Court may kindly be pleased to direct the respondent to be returned the above wrongly deducted amount 6,26,104 to the Petitioner in the interest of justice.



10.2 Any other relief which may be suitable in the facts and circumstances of the case, may also be granted.

2. Learned counsel for petitioner submits that the petitioner stood retired from service on 28/02/2026. He contended that at the fag end of his service, respondent authority has issued letter for recovery of amount of Rs.6,26,104/-. Petitioner was compelled to give consent for deduction of amount from salary. He was threatened that if the consent is not given, his retiral dues will be withheld and accordingly petitioner submitted consent. Accordingly, an amount of Rs.26,404/- is deducted from the salary of the month of February, 2026. Even after the petitioner has deposited Rs.6,00,000/- in the name of Superintendent of Police, Raipur through Treasury Challan. Recovery which is said to be made from petitioner is against excess payment made to him towards salary due to wrong fixation of pay. Excess payment is not on account of any suppression of fact or fraud played by petitioner with respondent authority. Petitioner is Class-III employee and therefore recovery of excess amount made to petitioner after lapse of long time is not permissible. In support of his submission he places reliance upon decision in case of **State of Punjab & ors vs. Rafiq Masih (White Washer) & ors, reported in (2015) 4 SCC 334**
3. On the other hand, learned counsel for the State oppose submission of learned counsel for the petitioner and would submit



that it is not in dispute that petitioner stood retired from service holding Class-III post. However, deduction is made pursuant to consent given by petitioner to the department in this regard. Recovery is against excess payment made to petitioner due to wrong fixation of pay. Consent letter is also filed as Annexure R-1. There is no arbitrariness on the part of respondent in deducting the amount which is paid in excess to petitioner.

4. I have heard learned counsel for the parties and also perused the documents annexed along with writ petition.
5. From the arguments which is advanced by learned counsel for the respective parties it is not in dispute that petitioner stood retired from post of Constable which is Class-III post.
6. Recovery which is made from petitioner is towards excess payment made to him due to wrong fixation of pay. It is not the case of respondent that excess payment is made to petitioner due to misrepresentation or suppression of fact or any fraud played by petitioner with respondent.
7. In case of **Rafiq Masih** (supra), Hon'ble Supreme Court considering the issue of recovery of amount paid in excess has summarized the situations where in certain cases, even recovery from the employee by the employer would not be permissible in law. In Para-18 it was observed thus:-

“18. It is not possible to postulate all situations of hardship, which would govern employees on the issue of



recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, 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.

8. So far submission of learned counsel for the State that deduction



is made pursuant to consent given by petitioner, perusal of Annexure R-1 enclosed along with return filed by State would show that consent from the petitioner is obtained on 21.05.2025 and petitioner stood retired on 30.09.2025.

9. In the aforementioned facts of case, submission of learned counsel for the petitioner that petitioner has submitted the consent letter and subsequently deposited the amount under the pressure and threat that he may not be paid retiral dues, cannot be overlooked.
10. In case of **High Court of Punjab and Haryana and others vs. Jagdev Singh, reported in (2016) 14 SCC 267**, Hon'ble Supreme Court though had considered the issue with regard to the undertaking, however, Para-10 (i) of the decision in case of Rafiq Masih (supra) has not been overruled or interfered. This aspect is also considered by the Division Bench of this Court in **WA No.264/2020** (State of CG vs Labha Ram Dhruv) wherein it was observed thus:

“9. In the case at hand, the Revision of Pay Rules, 2009 and 2017 do not make any enabling provision reserving option for the employer to seek refund of the amount paid in excess, by making the employee to furnish an undertaking. Even if we conclude, for the sake of arguments, that even in the absence of enabling provision under the Rules, undertaking



given by the employee would operate, the fact remains that against the classes of employees against whom recovery would be impermissible in law, as held by the Hon'ble Supreme Court in the matter of Rafiq Masih (Supra), recovery from the employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service) would still be impermissible in law. Meaning thereby that even when undertaking is submitted by the employee, but he otherwise belongs to Class-III and Class-IV service, and the amount has been paid more than 5 years back, the law declared by the Hon'ble Supreme Court in the matter of Rafiq Masih (Supra) would still hold the field in favour of such employees, because the judgment in the matter of Rafiq Masih (Supra) has not been overruled, but only clarified, by the Hon'ble Supreme Court in its later judgment in the matter of Jagdev Singh, Supra""

11. From perusal of the above, it is clear that the recovery from the employees belonging to Class-III and Class-IV category (or Group 'C' and Group 'D' service) is held to be impermissible in law. Meaning thereby that even if undertaking is submitted by the employee, but he otherwise belongs to Class-III or Class-IV service, recovery of excess amount paid from him/her is



impermissible.

13. In the case at hand, admittedly, petitioner was working on the post of Class-III in the Police Department and stood retired on 28/02/2026. It is also not the case of respondents that petitioner had received excess payment by practicing fraud or by making misrepresentation. Thus, petitioner cannot be compelled to return the amount which has been paid by the respondents on their own without any misrepresentation or fraud on the part of petitioner.

14. In light of above decisions and in the given facts and circumstances of the case, in the considered opinion of this Court, the respondents cannot be permitted to effect recovery from the petitioner of the amount paid in excess and being so, recovery against petitioner is not sustainable.

15. Consequently, writ petition is **allowed**. Respondents are directed to refund the alleged amount so recovered to petitioner within a period of three months from the date of receipt of copy of order, failing which recovered amount shall carry interest @ 6% per annum.

SD/-
(Bibhu Datta Guru)
Judge

Amardeep