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**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 3515 of 2021**

- Ganga Porte D/o Mehatru Ram Porte Aged About 57 Years Working As Head Master, Govt. Middle School Bagdai, District Balod Chhattisgarh

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

1. State Of Chhattisgarh Through The Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar Nawa Raipur District Raipur Chhattisgarh
2. Principal Secretary Department Of Finance, Mahanadi Bhawan, Atal Nagar District Raipur Chhattisgarh
3. District Education Officer District Balod Chhattisgarh
4. Block Education Officer Gurur District Balod Chhattisgarh

**... Respondent(s)**

For Petitioner	:	Mr. Kaushal Yadav, Advocate
For State	:	Mr. Abhyuday Tripathi, P.L.

**Hon'ble Shri Justice Rakesh Mohan Pandey****Order On Board****24.4.2026**

- 1) By way of this petition, petitioner has sought following reliefs:-

**10.1** That, petitioner most respectfully prays that this Hon'ble Court may kindly be pleased to set aside/quash the impugned recovery order dated 14.06.2021 (ANNEXURE P/1).

**10.2** That, petitioner most respectfully prays



that this Hon'ble Court may kindly order writ of appropriate nature directing the respondents to continue the salary without any deduction.

**10.3** Any other relief or reliefs that may be deemed fit and proper in the facts and circumstances of the case may be also kindly be granted.

- 2) Learned counsel for petitioner submits that petitioner is a class III employee working on the post of Head Master at Govt. Middle School, Bagdai, District Balod (C.G.). He further submits that due to mistake, pay-scale admissible to the petitioner was wrongly fixed at higher side by the respondent authorities in the month of April, 2013 and it continued till July, 2017. He contends that on 14.6.2021, respondent No. 4 has taken decision to recover the excess payment of Rs.60,510/- on the ground that petitioner's salary was fixed at higher scale. He further contends that petitioner is a class-III employee and after 04 years, mistake has been detected by the respondent authorities and thereafter, order of recovery has been issued. He argues that issue involved in present case is squarely covered by the judgment rendered by the Hon'ble Supreme Court in the matter of ***State of Punjab v. Rafiq Masih (White Washer) and others***<sup>1</sup>.
- 3) On the other hand, learned State counsel submits that due to mistake, excess payment has been made to the petitioner from April, 2013 to July, 2017 and when this mistake came into knowledge of respondent authorities, order of recovery was

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1. (2015) 4 SCC 334



issued. He further submits there is no infirmity in the orders impugned and this petition deserves to be dismissed.

- 4) Heard learned counsel for the parties and perused the documents placed on record.
- 5) The Hon'ble Supreme Court in the matter of **Rafiq Masih** (supra) observed that:-

**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) Admittedly, petitioner is a class-III employee and there was no misrepresentation on the part of petitioner. Further, the order of recovery has been issued after period of 04 years. This petition was filed in the year 2021 when petitioner was aged 57 and at present he has retired from the services on attaining the age of superannuation.
- 7) Taking into consideration the facts of the present case and the law laid down by the Apex Court in the matter of **Rafiq Masih** (supra), order of recovery dated 14.6.2021 (Annexure P/1) is hereby quashed. Respondents are directed to refund the amount already recovered from the petitioner with interest @ 6%.
- 8) Accordingly, this petition stands **allowed**.

**Sd/-**  
**(Rakesh Mohan Pandey)**  
JUDGE

Ajinkya