



2026:CGHC:4294-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WA No. 65 of 2026**

T.P. Gupta S/o Late J.R. Gupta Aged About 60 Years Posted As Oa Grade 1, Office At- Chief Engineer Office, Dr Shyama Prasad Mukherjee, Thermal Power Station Korba East. District- Korba (C.G.)

... Appellant**versus**

- 1** - Chhattisgarh State Power Generation Company Limited, Through- Its Chairman Office At Vidyut Bhawan Danganiya Raipur, District- Raipur (C.G.)
- 2** - Chhattisgarh State Power Generation Company Limited Through- Its Managing Director Office At Vidyut Bhawan, Danganiya Raipur, District- Raipur (C.G.)
- 3** - Chhattisgarh State Power Generation Company Limited Through Its Chief Engineer (Hr) Office At Vidyut Bhawan, Danganiya Raipur, District- Raipur (C.G.)
- 4** - Chhattisgarh State Power Generation Company Limited Through Its Executive Director (Generation) Office At Dr Shyama Prasad Mukherjee, Thermal Power Station Korba East District- Korba (C.G.)
- 5** - Chief Engineer (Bilaspur Area) Office At Cspdc Bilaspur, District- Bilaspur (C.G.)
- 6** - Chief Engineer (Production) Office At Dr Shyama Prasad Mukherjee, Thermal Power Station Korba East District- Korba (C.G.)
- 7** - Superintending Engineer (T And Qa) Office At Dr Shyama Prasad Mukherjee Thermal Power Station Korba East District- Korba (C.G.)



8 - Additional Chief Engineer (Fuel Management) Office At Dr Shyama Prasad Mukherjee, Thermal Power Station Korba East, District- Korba (C.G.)

... Respondents

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Sohail Afzal, Advocate
For Respondents	:	Mr. Akash Pandey, Advocate on behalf of Mr. Mayank Chandrakar, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

27.01.2026

- 1** Heard Mr. Sohail Afzal, learned counsel for the appellant as well as Mr. Akash Pandey, learned counsel holding brief of Mr. Mayank Chandrakar, learned counsel appearing for the respondents.
- 2** By way of this writ appeal, appellant has prayed for following relief(s):-

“1. Allow the Writ Appeal and set aside the impugned order passed by the learned Single Judge;

2. Quash the recovery proceedings initiated against the Appellant;

3. Grant all consequential service and monetary benefits;

4. Pass any other order deemed fit in the interest of justice.”



- 3 The present intra Court appeal has been filed against the order dated 02.01.2026 passed by the learned Single Judge in WPS No.5136/2024 (*T.P. Gupta v. Chhattisgarh State Power Generation Company Limited and others*), whereby the writ petition filed by the writ petitioner has been dismissed.
- 4 The brief facts projected before the learned Single Judge was that the writ petitioner was initially appointed on the post of Peon on 27.04.1985 and was subsequently promoted to the post of Office Assistant Grade-III in the year 1990. Since he was not granted promotion within nine years of service, he was extended the benefit of the first higher pay scale in the year 1999 in terms of notification dated 11.01.1997. Thereafter, on completion of eighteen years of service, the writ petitioner was granted the second higher pay scale in the year 2008 pursuant to an order dated 03.10.2008 passed after consideration by the Departmental Promotion Committee, despite the fact that the writ petitioner had disclosed in his application dated 02.02.2008 that he had not completed the requisite accounts training.
- 5 It is further case of the writ petitioner that neither the notification dated 19.07.2005 nor its explanatory circular dated 20.10.2005 prescribes completion of accounts training as a mandatory condition for grant of higher pay scale. It was further submitted that as per the policy decision of the respondents, employees are entitled to a minimum of three opportunities to clear the accounts



training. The writ petitioner successfully completed the said training on 25.08.2023 in his third attempt, the delay having occurred on account of pendency of litigation relating to the training result, which was finally disposed of only in the year 2023. In the meantime, the writ petitioner was promoted to the post of Office Assistant Grade-II in the year 2010 on completion of 25 years of service, and thereafter he applied for grant of the next higher pay scale on 03.03.2017. No decision was taken on the said application for a considerable period, compelling the writ petitioner to submit a representation dated 05.12.2023. Subsequently, vide communication dated 09.02.2024, the writ petitioner was informed that an inquiry had been initiated regarding the grant of second higher pay scale in the year 2008 on the ground of non-completion of accounts training. The writ petitioner submitted his explanation to the said inquiry on 14.02.2024. However, ignoring the explanation so furnished, the respondents issued an order dated 13.08.2024 directing recovery of the alleged excess payment made on account of grant of second higher pay scale. Though the writ petitioner submitted a reply to the recovery order on 14.08.2024, no cogent or satisfactory reasons were assigned by the respondents.

- 6 Aggrieved thereby, the writ petitioner has approached this Court seeking quashment of the recovery order dated 13.08.2024 by filing WPS No.5136/2024, which was dismissed on 02.01.2026.



- 7 Calling in question the legality and propriety of the order dated 02.01.2026, the appellant/writ petitioner has approached this Court by filing the present appeal.
- 8 Learned counsel for the appellant/writ petitioner submits that the impugned recovery has been initiated after an inordinate delay of about sixteen years during which the benefit of higher pay scale was continuously paid, and therefore the same is squarely barred by the law laid down by the Hon'ble Supreme Court in ***State of Punjab v. Rafiq Masih, (2015) 4 SCC 334***. It is contended that the Hon'ble Supreme Court has categorically held that recovery of excess payment is impermissible where such payment has been made for a period exceeding five years, particularly when the employee is not at fault. It is further submitted that the appellant/writ petitioner is a Class-III employee and, therefore, recovery is additionally impermissible in view of the express prohibition contained in *Rafiq Masih* against recovery from employees belonging to the lower rung of service, where such recovery would result in undue hardship and inequity.
- 9 Learned counsel further submits that recovery can be ordered only in cases involving fraud or misrepresentation, both of which are conspicuously absent in the present case. On the contrary, the appellant/writ petitioner had candidly disclosed in the year 2008 that he had not completed the accounts training, yet the respondents, after due consideration, voluntarily extended the



benefit of second higher pay scale. It is also contended that having granted the benefit in the year 2008 and having allowed the appellant/writ petitioner to enjoy the same uninterruptedly for a period of sixteen years, the respondents are estopped in law from withdrawing the said benefit at this belated stage.

- 10** Learned counsel further submits that the Hon'ble Supreme Court has consistently held that recovery effected after a long lapse of time is harsh, arbitrary and inequitable, even in cases where the initial grant of benefit may have been erroneous. It is pointed out that the delay in completion of accounts training occurred due to health-related issues and also on account of withholding of examination results owing to pendency of WPS No. 4757 of 2017, circumstances wholly beyond the control of the appellant/writ petitioner. It is further submitted that the appellant/writ petitioner has since successfully completed the accounts training on 25.08.2023, thereby curing even the alleged defect, leaving no justifiable ground for initiation of recovery.
- 11** Learned counsel lastly submits that several similarly situated employees continue to enjoy the benefit of higher pay scale without any recovery proceedings, and singling out the appellant/writ petitioner alone amounts to hostile discrimination, violative of Articles 14 and 16 of the Constitution of India. It is contended that ordering recovery after sixteen years, at the fag end of service, causes grave financial hardship and is wholly



opposed to the principles of equity, fairness and good conscience, which, as held in **Rafiq Masih** (supra), are of paramount consideration.

- 12** On the other hand, learned counsel for the respondents opposes the submissions advanced by learned counsel for the appellant and submits that the benefit of second higher pay scale granted to the appellant/writ petitioner in the year 2008 was extended in contravention of the applicable service conditions, as completion of accounts training was a mandatory prerequisite for eligibility. It is contended that the grant of higher pay scale without fulfillment of the prescribed qualification was patently erroneous and contrary to the rules. It is further submitted that mere passage of time does not legalise an illegal benefit and the State is under a statutory obligation to rectify mistakes and recover excess public money. According to the respondents, the appellant/writ petitioner was fully aware of his ineligibility at the relevant time and, therefore, the principle laid down in **Rafiq Masih** (supra) would not apply to the facts of the present case. It is also submits that subsequent completion of accounts training in the year 2023 cannot validate or cure the illegality attached to the grant of higher pay scale in the year 2008, nor does it create any vested or indefeasible right in favour of the appellant/writ petitioner. It is also contended that the recovery has been initiated only after due inquiry and after affording opportunity of hearing, and therefore



the impugned recovery order does not suffer from any illegality or arbitrariness.

- 13 We have heard learned counsel for the parties and perused the impugned order as well as materials available on record.
- 14 After appreciating the submissions of learned counsel for the parties as also the materials on record, while relying upon the decision rendered by the Hon'ble Supreme Court in ***Union of India v. N.M. Raut and others, 2024 INSC 1042***, the learned Single Judge has passed the impugned order in following terms:-

“8. From the submission made by the parties for determination of this Court is whether the impugned order dated 13.08.2024 is legal, justified and liable to be quashed by this Court or not.

9. To appreciate the point of determination, it is expedient for this Court to extract the circular/policy of the respondents granting higher pay scale. The respondents has referred the circular dated 29.12.2003 which is continuation of circular dated 30.01.1989 which specifically provides that all the employees appointed office Assistant Grade-II after 01.01.1989 are required to undergo three months account training and also passed the associate examination for further promotion to the post of O.A. Grade-I/S.K Grade-II or grant of higher pay scale and who have not undergone account training shall be



considered for promotion to the next higher post of O.A. Grade-I and S.O. respectively but will be required to undergo and pass three months training before they are considered for further promotion to the post of S.O. and Account Officer respectively. Even the circular dated 11.01.1997 filed by the petitioner also provides that it is necessary that employee who was promoted to the post of O.A. Grade-II after 01.01.1989 to undergo three months training and also passed the Associate examination before they are considered for promotion to the next higher post of O.A. Grade-I for grant of higher pay scale which clearly demonstrate that circular dated 11.01.1997 is against the petitioner.

10. The petitioner has contended that the delay in training was due to stay granted by the Court, as such the recovery order should not be passed is also misconceived and deserves to be redirected as the responded has also relieved the petitioner for account training is evident from order dated 30.01.2016 (Annexure R/1) and this fact has not been disputed by the petitioner, as such his claim for exemption from account training for this period deserves to be rejected and it is rejected. Similarly, the circular dated 19.07.2005 (Annexure P/5) filed by the petitioner which is grant of higher pay scale also provides that in case of employee whose promotion to the higher post is held up for



want of minimum qualification such employee shall not be eligible to opt for higher pay scale. If the employee is not having requisite training for grant of higher pay scale. From perusal of above circular and also considering the undisputed fact that the petitioner has not cleared the account training examination in the year 2008 when second pay scale was granted to the petitioner, he was not entitled to get higher pay scale. This facts are known to the petitioner only as this can be within the specific knowledge of the petitioner that he has not cleared the training examination, as such it cannot be said that he was not aware of getting high pay scale which he is otherwise not entitled to get, therefore, it cannot be said that it was solely mistake on the part of the respondents. In fact, the petitioner has obtained the benefits after concealment of the material facts.

11. The effect of concealment of fact is that it vitiates everything and equity is always granted to the person who comes to the court of law with clean hands, as such the petitioner is not entitled to get any relief as he himself is responsible for concealment of the fact. The Hon'ble Supreme Court in the case of Union of India vs. N.M. Raut & Ors reported in 2024 INSC 1042 has held as under;-

22. We are informed that, in the present case, the Government of India had implemented and executed the MACPS by granting benefits to the respondents and,



later on, recoveries were initiated. As many of the employees may have retired, in terms of the decision of this Court in “State of Punjab and Others vs. Rafiq Masih (White Washer) and Others, we deem it appropriate to direct that the Union of India will not effect any recovery of arrears from the retirees or those who are retiring within one year from the date of pronouncement of this judgment.

23. In other cases, the recoveries may be made after issuing notice to the employee concerned, whose request for proportionate recovery over a period of time not exceeding two years, may be considered depending upon the quantum of recovery which is to be made. We also deem it appropriate to direct that the appellant, Union of India, will not charge interest on the amount to be recovered as they themselves had made the payment and, the issue being debatable, to ask the employees to pay interest at this distant point of time may lead to difficulty both in calculation as well as in payment.

24. However, it is clarified that the pension and the pay scale, which are payable shall be re-determined on the basis of this judgment and will apply prospectively with effect from 01.01.2025.

25. Where recoveries have been made from the retirees, the same shall be refunded. However, in the case of serving employees, where recoveries have been made, the same need not be refunded.

26. We also clarify that we have not made any comments or observations on any petition/appeal which is filed challenging the validity and legality of Clause 8.1 of the MACPS.



12. From the above stated position of law, it is quite vivid that recovery can be made from an employee if he is not due for retirement within one year. In the present case, the petitioner is not due for retirement when the order was passed on 23.08.2024 as the age of superannuation in Chhattisgarh Power General Company is 62 years, thus in view of Rafiq Masih (supra) and M.N. Raut (supra), the recovery order is permissible. Since the petitioner is unable to justify grant of second higher pay scale from 2008, I am of the view that the writ petition deserves to be dismissed and accordingly it is dismissed.

13. Before parting with this case, it is made clear that the respondents initiated recovery proceedings, monthly installment should not be on higher side but should be proportionate to the liability and salary of the petitioner, so that no inconvenience can be caused to the petitioner.

14. Interim order passed by this Court on 28.08.2024 stands vacated."

- 15** It is undisputed that the appellant/writ petitioner had not completed the mandatory accounts training at the time when the second higher pay scale was granted in the year 2008. The applicable circulars governing the service conditions, particularly the circulars dated 30.01.1989, 29.12.2003 and 11.01.1997, clearly prescribe completion of accounts training and passing of



the associate examination as a condition precedent not only for promotion but also for grant of higher pay scale. The subsequent circular dated 19.07.2005 further clarifies that an employee whose promotion is withheld on account of non-fulfilment of minimum qualification shall not be eligible for higher pay scale.

- 16** The contention of the appellant that accounts training was not a mandatory requirement cannot be accepted in the face of the clear and unambiguous language of the governing circulars. The learned Single Judge has rightly held that the appellant was fully aware of his ineligibility, the fact being within his exclusive knowledge, and yet continued to draw financial benefits to which he was otherwise not entitled. The plea of bona fide mistake on the part of the respondents, therefore, does not come to the aid of the appellant.
- 17** So far as the reliance placed on the judgment of the Hon'ble Supreme Court in **Rafiq Masih** (supra) is concerned, the same has been duly considered by the learned Single Judge in the light of the subsequent authoritative pronouncement of the Hon'ble Supreme Court in **N.M. Raut** (supra). The latter decision clarifies that recovery is permissible from serving employees who are not on the verge of retirement, subject to adherence to principles of natural justice and equitable recovery in reasonable installments.
- 18** In the present case, it is an admitted position that the appellant/writ petitioner was a serving employee and was not due



to retire within one year from the date of initiation of recovery. The recovery proceedings were preceded by a notice and an inquiry, and the appellant was afforded opportunity to submit his explanation. Therefore, the impugned recovery cannot be said to be vitiated on the ground of violation of natural justice or arbitrariness.

- 19** The subsequent completion of accounts training by the appellant in the year 2023, though commendable, does not retrospectively validate the grant of higher pay scale made in the year 2008 in patent violation of the governing rules. Nor can it confer any vested or accrued right upon the appellant to retain financial benefits which were extended contrary to the service conditions.
- 20** The learned Single Judge has also exercised due equity by directing that the recovery be effected in proportionate monthly installments so as to avoid undue hardship, thereby striking a balance between protection of public exchequer and fairness to the employee. We find no perversity, illegality or jurisdictional error in the reasoning or conclusion arrived at by the learned Single Judge warranting interference in intra-Court appellate jurisdiction.
- 21** In view of the foregoing discussion, we are of the considered opinion that the writ appeal is devoid of merit. The impugned order dated 02.01.2026 passed by the learned Single Judge does not suffer from any infirmity calling for interference by this Court.



- 22** Accordingly, the writ appeal stands **dismissed**. There shall be no order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Anu