



2025:JHC-1 K03:257802

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 14589 of 2025

Shyam Narayan Tiwari (Pno-820560340)

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Home (Police),
Anubhag 2 Lko. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Gyanendra Nath
Counsel for Respondent(s)	:	C.S.C.

Court No. - 7

HON'BLE MANISH MATHUR, J.

1. Heard learned counsel for petitioner and learned State Counsel appearing on behalf of the opposite parties.
2. Present petition under Article 226 of Constitution of India has been filed challenging order dated 02.01.2025 whereby pay-scale granted to petitioner with effect from 01.01.2006 has been re-determined with direction being issued for adjustment of excess payment made to petitioner.
3. Learned counsel for petitioner submits that petitioner was retired Class IV employee and by means of impugned order, recovery has been effected without affording him any opportunity of hearing, for benefits which petitioner has been drawing for the past twenty four years. It is submitted that impugned order does not indicate any complicity or misrepresentation on part of petitioner in the alleged excess payment of salary. He has relied upon judgment rendered by Hon'ble the Supreme Court in ***State of Punjab & others v. Rafiq Masih (White Washer) & others*** reported in ***(2015) 4 SCC 334***.
4. Learned State Counsel has not been provided written instructions in this matter but submits that impugned order has been passed in view of fact that due to some error, excess payment has been made to petitioner.

5. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, it is evident from a perusal of impugned order dated 02.01.2025 that re-fixation of pay of petitioner with effect from January 2006 has been effected along with directions for recovery but it is also evident that prior to passing of impugned order, no opportunity of hearing has been provided to petitioner.

6. Hon'ble the Supreme Court in ***State of Punjab & others v. Rafiq Masih***(supra) has clearly enunciated that recovery cannot be effected from salary of Class IV employee particularly when there is no allegation of any fraud or misrepresentation on part of the employee.

7. In view of aforesaid facts and circumstances, impugned order dated 02.01.2025 is hereby quashed by issuance of a writ in the nature of Certiorari granting liberty to authority concerned to pass orders afresh regarding pay-fixation but only after affording opportunity of hearing to petitioner and considering his reply. Aforesaid exercise shall keep in mind directions issued by Hon'ble the Supreme Court in ***State of Punjab & others v. Rafiq Masih*** (supra). Such a decision shall be taken within a period of eight weeks. Refund of recovery made from petitioner's salary shall be made by the authority within same period in light of ***State of Punjab & others v. Rafiq Masih*** (supra).

8. Resultantly, the petition succeeds and is **allowed**.

(Manish Mathur,J.)

December 17, 2025

Subodh/-