



CGHC010250722026

2026:CGHC:44246

NAFR



HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5007 of 2026

Smt. Gayatri Mishra W/o Late Shri Sunil Kumar Mishra Aged About 59 Years
In Her Capacity As Widow, Legal Heir And Nominee Of The Deceased
Government Servant, R/o Jana Vastra Vila, Sector-3, Kargil Chowk, Shivanand
Nagar, Near Gupta Pooja Samagri Shop, Raipur, Chhattisgarh

Petitioner(s)

Versus

1 - State Of Chhattisgarh Through The Director, Directorate Of Agriculture,
Department Of Agriculture Development, Farmer Welfare And Biotechnology,
Block- Ii, Second Floor, Indravati Bhavan, Nava Raipur, Atal Nagar,
Chhattisgarh- 492018

2 - The Additional Director Directorate Of Agriculture, Block- Ii Second Floor,
Indravati Bhavan, Nava Raipur, Atal Nagar, Chhattisgarh- 492018 (Author Of
The Impugned Revised Pay- Fixation Order Dated 13-05-2026)

3 - The Assistant Director Agriculture (Drawing And Disbursement), Drawing-
Disbursing Officer, Directorate Of Agriculture, Block- Ii, Second Floor,
Indravati Bhavan, Nava Raipur, Atal Nagar, Chhattisgarh- 492018 (Author Of
The Impugned Recovery Demand Dated 18-06-2026)

4 - The Divisional Joint Director Treasury, Accounts And Pension, Raipur,
Chhattisgarh (At Whose Objection The Impugned Refixation And Recovery
Were Set In Motion)

5 - The Senior Treasury Officer Indravati Treasury (C.G.T.C.), Indravati
Bhavan, Nava Raipur, Atal Nagar, Chhattisgarh (To Whom The Impugned
Deposit Is Directed To Be Made)

Respondent(s)

(Cause-title taken from CIS)

For Petitioner(s) : Mr. Raja Sharma, Advocate

For Respondent(s) : Mr. Anadi Sharma, PL

(HON'BLE SHRI JUSTICE BIBHU DATTA GURU)

Order on Board

13.10.2026

1. The petitioner has filed the present writ petition challenging the revised pay-fixation order dated 13.05.2026 (Annexure P/1) and the consequential recovery demand dated 18.06.2026 (Annexure P/2), whereby recovery of ₹2,50,272/- has been sought on account of alleged excess payment of salary to her deceased husband, who was serving as Assistant Grade-II, a Class III employee in the Directorate of Agriculture, Government of Chhattisgarh, and died in harness on 14.11.2025.

2. Learned counsel for the petitioner submits that the alleged excess payment arose out of an error in pay fixation attributable entirely to the employer and that neither the deceased employee nor the petitioner was responsible for such error. It is further submitted that the alleged excess payment relates to the period commencing from 01.04.2006, whereas the objection and consequential recovery proceedings were initiated only in the year 2026, after the death of the employee. Learned counsel contends that the recovery has been ordered without affording any opportunity of hearing and is impermissible in view of the principles laid down by the Hon'ble Supreme Court in *State of Punjab v. Rafiq Masih (White Washer)*, (2015) 4 SCC 334.

3. *Per contra*, learned State counsel submits that the respondents are empowered to rectify an erroneous pay fixation and recover excess payments made from public funds. In support of his submission, he places reliance upon

the judgment of the Hon'ble Supreme Court in *Chandi Prasad Uniyal and Others v. State of Uttarakhand and Others*, (2012) 8 SCC 417, particularly paragraph 14 thereof, to contend that excess payment of public money cannot be permitted to be retained merely on the ground that the same was not attributable to any fraud or misrepresentation on the part of the employee. He further submits that the petitioner's daughter, who has been granted compassionate appointment, furnished an undertaking dated 16.12.2025, reiterated on 06.01.2026, agreeing to repay or adjust any amount lawfully recoverable in respect of the deceased Government servant, therefore, he prays for grant of liberty to recover the amount as per the undertaking given by the daughter of the petitioner.

4. Having considered the submissions advanced by learned counsel for the parties and the material available on record, this Court finds that the alleged excess payment is stated to have arisen from the pay fixation effected with effect from 01.04.2006. The revised pay-fixation order and the consequential recovery demand were issued only in May and June 2026, respectively, after the employee's death. There is no allegation of fraud or misrepresentation against the deceased employee, who belonged to Class III service.

5. The question of recovery of excess payments from employees, particularly those belonging to Class III and Class IV service, has been considered by the Hon'ble Supreme Court in *Rafiq Masih (Supra)*. The principles laid down therein recognise that recovery in specified circumstances may be impermissible where it would result in undue hardship or be inequitable. In the facts of the present case, the alleged excess payment continued over a period of approximately nineteen years, and the recovery has

been sought after the death of the employee, without any allegation of fraud or misrepresentation. In these circumstances, the consequential recovery demand cannot be sustained.

6. Accordingly, the writ petition is **allowed**. The impugned recovery demand dated 18.06.2026 (Annexure P/2), seeking recovery of ₹2,50,272/- from the petitioner, is hereby quashed. The respondents shall not recover the aforesaid amount from the petitioner's family pension or other pensionary benefits on the basis of the impugned demand.

7. However, the State has specifically pleaded that the petitioner's daughter furnished an undertaking dated 16.12.2025, reiterated on 06.01.2026, in connection with her compassionate appointment, agreeing to repay or adjust any amount lawfully recoverable in respect of the deceased Government servant. In view of the said undertaking, liberty is reserved to the respondents to examine and take appropriate action, in accordance with law, on the basis of the undertaking furnished by the daughter, for recovery of any amount lawfully recoverable from her in respect of the alleged excess payment made to the deceased employee. Any such action shall be confined to the terms and scope of the undertaking and shall remain subject to the applicable rules and the law governing recovery of excess payments.

8. The writ petition stands allowed in the above terms.

Sd/-

(BIBHU DATTA GURU)
JUDGE