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HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 732 of 2026

Alok Zachariah S/o Late Shri K.K. Zachariah Aged About 67 Years
Occupation - Retired Accountant, R/o Village- Umarmara, Post - Amali,
Tahsil- Kota, District- Bilaspur (C.G.) Mo. No. - 8839980520

... Appellant

versus

1 - State of Chhattisgarh Through - Secretary, Department of Health,
Mahanadi Bhawan, Mantralaya, Raipur, P.S. Kewli, Tahsil And District-
Raipur (C.G.)

2 - Director Health Services, Atal Nagar, Nawa Raipur, Tahsil And
District- Raipur (C.G.)

3 - Joint Director Health Services, Seepat Road Bilaspur, Tahsil And
District- Bilaspur (C.G.)

4 - Chief Medical And Health Officer Bilaspur, Tahsil And District-
Bilaspur (C.G.)

5 - Chief Medical And Health Officer Near Tehsil Pendra Road, District-
Gaurela-Pendra-Marwahi (C.G.)

6 - Block Medical Officer Community Health Center Gourela, Tahsil-
Gourela, District- Gourela-Pendra-Marwahi (C.G.)

7 - District Treasury Officer Gourela-Pendra-Marwahi, District- Gourela-
Pendra-Marwahi (C.G.)

... Respondents

For Appellant	: Mr. Ratnesh Kumar Agrawal, Advocate
For Respondents/ State	: Mr. S.S. Baghel, Government Advocate

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

JUDGMENT ON BOARD

Per Ramesh Sinha, Chief Justice

14.08.2026

1. Heard Mr. Ratnesh Kumar Agrawal, learned counsel for the appellant as well as Mr. S.S. Baghel, learned Government Advocate, appearing for the State/respondents on I.A. No. 02 of 2026, which is an application for condonation of delay of 82 days in preferring the instant appeal.
2. After hearing learned counsel for the parties and considering the reasons mentioned in the application, we are of the considered opinion that sufficient cause has been shown in the application and accordingly, I.A. No. 02 of 2026 is allowed and delay of 86 days in filing the appeal is condoned.
3. With the consent of learned counsel for the parties, the appeal is heard finally.
4. By way of present writ appeal under Section 2 of Sub-Section (1) of the Chhattisgarh High Court (Appeal to Division Bench Act, 2006, the appellant has challenged the impugned judgment dated 13.03.2026 passed by the learned Single Judge in WPS No.4419 of 2023, whereby the writ petition filed by the writ petitioner/appellant herein has been dismissed by the learned Single Judge.
5. Brief facts, necessary for disposal of this appeal, are that the petitioner was initially working on the post of AG-III and was promoted by Respondent No. 4 to the post of Accountant vide order dated 03.02.2011 in the office of Respondent No. 6,

whereafter his pay and increments were fixed in accordance with the post of Accountant. The petitioner continued to receive salary and increments on the basis of such pay fixation until his retirement on 30.11.2021 from the post of Accountant, Class-III. After reorganization and creation of District Gaurela-Pendra-Marwahi, the petitioner came under the control of Respondent No.5. Respondent No.6, vide order dated 04.12.2021, directed payment of leave encashment to the petitioner. Subsequently, on 20.10.2022, Respondent No.6 issued a notice (Annexure P/4) alleging that an excess amount of Rs.12,11,062/- had been paid to the petitioner towards salary and gratuity for the period from 01.10.2008 to 30.11.2021 and directed him to deposit the said amount within seven days. On the same date, Respondent No. 6 passed an order (Annexure P/5) for recovery of the alleged excess payment. The petitioner submitted his reply dated 07.11.2022 (Annexure P/6), contending that the salary and increments had been paid to him on the basis of the pay fixation made by the department and that the gratuity and leave encashment had also been paid by the competent authority. The petitioner contended that he had neither committed any fraud nor made any misrepresentation for obtaining the alleged excess amount and that the payment was made by the department pursuant to its own pay fixation and calculation. The petitioner also submitted representations dated 06.12.2021, 07.11.2022 and 16.12.2022 seeking release of his pension and gratuity. However,

subsequently, Respondent No. 6, vide order dated 20.06.2023, directed the petitioner to deposit a sum of Rs.13,17,766/- before Respondent No.7 towards the alleged excess payment. Aggrieved by the said action, the petitioner has approached this Court by filing a writ petition being WPS No. 4419 of 2023, contending that the alleged excess payment was not attributable to any fraud, misrepresentation or misconduct on his part and that the recovery, particularly after his retirement, is arbitrary, unjust and contrary to the principles of natural justice. The said writ petition was dismissed by the learned Single Judge vide impugned order dated 13.03.2026. Hence, this appeal.

6. Learned counsel for the appellant/writ petitioner would submit that the learned Single Judge has erred in dismissing the writ petition without properly appreciating that the alleged excess payment was not occasioned on account of any fraud, misrepresentation or misconduct on the part of the appellant. It is submitted that the appellant's pay was duly fixed by the competent departmental authority consequent upon his promotion from the post of AG-III to Accountant vide order dated 03.02.2011, and thereafter the appellant continued to receive his salary and increments strictly in accordance with the pay fixation made by the department. The appellant had no role in fixation or computation of his salary and had bona fide accepted the payments made to him by the competent authority. It is therefore contended that the appellant cannot be held responsible for any alleged erroneous fixation or

excess payment made by the respondents. It is further submitted that the appellant retired from service on 30.11.2021 and the alleged recovery was initiated only thereafter, by notice dated 20.10.2022, alleging excess payment of Rs.12,11,062/-, which was subsequently enhanced to Rs.13,17,766/- vide order dated 20.06.2023. Learned counsel would contend that such recovery from a retired Class-III employee, after his retirement and after the amounts had been paid to him over a prolonged period, is wholly arbitrary and causes serious prejudice to the appellant. In support of his contention, he placed reliance on the judgment passed by the Apex Court in **State of Punjab & Others v. Rafiq Masih (White Washer), (2015) 4 SCC 334** and **Thomas Daniel v. State of Kerala & Others, AIR 2022 SC 2153**.

7. Learned counsel for the appellant would further submit that the appellant had specifically replied to the recovery notice vide Annexure P/6, explaining that the payments had been made pursuant to the pay fixation and increments sanctioned by the department itself. Despite the said explanation, the respondents proceeded with the recovery without properly considering the appellant's defence. The impugned recovery orders are therefore alleged to be in violation of the principles of natural justice. It is also submitted that the appellant had repeatedly approached the authorities for release of his pension and gratuity, but instead of settling his retiral dues, the respondents proceeded to recover the alleged excess amount. It is lastly submitted that the learned

Single Judge failed to consider the settled principles governing recovery of excess payment from retired employees, particularly where the excess payment is attributable solely to an error of the employer and there is no allegation of fraud or misrepresentation by the employee as such, the impugned judgment dated 13.03.2026 deserves to be set aside and the recovery orders dated 20.10.2022 and 20.06.2023 deserve to be quashed, with a direction to the respondents to release the appellant's retiral benefits in accordance with law.

8. On the other hand, learned State counsel, while opposing the appeal, would submit that the learned Single Judge has rightly dismissed the writ petition after considering the relevant statutory provisions and the material available on record. At the outset, learned State counsel would draw attention of this Court to **Rule 65 of the Chhattisgarh Civil Services (Pension) Rules, 1976**, which empowers the State to recover ascertainable Government dues from a retiring Government servant and specifically includes **over-payment of pay and allowances** within the expression “ascertainable Government dues”. It is therefore contended that the respondents were competent to recover the excess amount found payable from the appellant. Learned State counsel would further submit that the Department of Finance and Planning, Government of Chhattisgarh, issued circular dated 06.07.2015 providing that, in cases of wrong pay fixation, an opportunity of hearing is required to be afforded to the concerned Government

servant and thereafter a speaking order is to be passed. In the present case, notice dated 20.10.2022 (Annexure P/4) was issued to the appellant informing him about the alleged excess payment of Rs.12,11,062/- towards salary and gratuity and directing him to deposit the said amount. The appellant submitted his reply dated 07.11.2022, which was duly considered, and thereafter, upon finding the explanation unsatisfactory, Respondent No.6 passed the order dated 20.06.2023 directing recovery of Rs.13,17,766/-. Thus, sufficient opportunity of hearing was afforded to the appellant before passing the recovery order. It is further submitted that the requirement of observance of principles of natural justice has been duly complied with. Learned State counsel would rely upon the judgment of the Hon'ble Supreme Court in **Bhagwan Das Shukla v. Union of India, (1994) 6 SCC 154**, and **L.K. Ladiya v. State of Chhattisgarh & Others, WPS No.6459 of 2018**.

9. Learned State counsel would further submit that the appellant has failed to demonstrate any procedural irregularity, violation of the applicable rules or denial of reasonable opportunity of hearing. The recovery proceedings were undertaken in accordance with Rule 65 of the 1976 Rules and the relevant Government circular, and the appellant, despite being afforded an opportunity, failed to establish his entitlement to the amount found to have been paid in excess. The learned Single Judge, therefore, committed no error in declining to interfere with the recovery order. It is lastly

submitted that the principles laid down in **Rafiq Masih (White Washer)** (supra) and **Thomas Daniel** (supra), relied upon by the appellant, would not automatically invalidate the recovery, particularly when the competent authority has followed the prescribed procedure and determined the excess payment after considering the appellant's reply. Accordingly, the State would submit that the appeal is devoid of merit and deserves to be dismissed, and the judgment dated 13.03.2026 passed by the learned Single Judge in WPS No.4419 of 2023 deserves to be affirmed.

10. Upon consideration of the submissions advanced by learned counsel for the parties and perusal of the material available on record, the short question which arises for consideration in the present appeal is whether the respondents were justified in directing recovery of the alleged excess amount paid to the appellant on account of wrong pay fixation, particularly after his retirement.
11. It is not in dispute that the appellant was promoted from the post of AG-III to Accountant vide order dated 03.02.2011 and that his pay was thereafter fixed by the competent departmental authority. It is also not in dispute that the appellant retired from service on 30.11.2021 and that the recovery proceedings were initiated subsequently. However, the mere fact that the appellant had retired or that the alleged excess payment was not attributable to any fraud or misrepresentation on his part cannot, by itself, render

the recovery proceedings illegal. The respondents have specifically relied upon **Rule 65 of the Chhattisgarh Civil Services (Pension) Rules, 1976**, which expressly includes over-payment of pay and allowances within the expression “ascertainable Government dues” and empowers the competent authority to recover such dues.

12. This Court further find that the procedure adopted by the respondents cannot be said to be in violation of the principles of natural justice. The appellant was issued notice dated 20.10.2022 informing him of the alleged excess payment and the amount sought to be recovered. The appellant submitted his reply dated 07.11.2022, which was considered by the competent authority, and thereafter the order dated 20.06.2023 was passed directing recovery. Thus, the appellant was afforded adequate opportunity to place his defence before the order of recovery was passed. The requirement of observance of natural justice, therefore, stands substantially complied with.
13. The reliance placed by the appellant upon **Rafiq Masih (White Washer)** (supra) and **Thomas Daniel** (supra) cannot be applied mechanically to the facts of the present case. The decisions relied upon by the appellant lay down principles governing recovery in cases where the facts and circumstances justify equitable interference; however, they do not obliterate the statutory power of the employer to recover Government dues in every case of excess payment. In the present matter, the respondents have

acted under the statutory framework contained in Rule 65 of the 1976 Rules and have followed the prescribed procedure before determining the amount recoverable.

14. We are also conscious of the fact that the appellant is a retired Class-III employee and that the alleged excess payment was made over a considerable period. However, in the facts of the present case, we do not find sufficient ground to hold that the recovery order is without jurisdiction or that the same has been passed in breach of the principles of natural justice. The appellant has also failed to demonstrate any perversity or jurisdictional error in the order passed by the learned Single Judge.
15. Accordingly, we find no reason to interfere with the impugned judgment dated 13.03.2026 passed by the learned Single Judge in WPS No.4419 of 2023. The appeal, being devoid of merit, is liable to be and is hereby **dismissed**. The impugned judgment is affirmed. There shall be no order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice