



# **HIGH COURT OF UTTARAKHAND AT NAINITAL**

## **Writ Petition Service Single No.378 of 2026**

**18<sup>th</sup> August, 2026**

Sarveshwari

.....Petitioner

### **Versus**

State of Uttarakhand and others .....Respondents

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Presence:-

Mr. Anil Bisht, learned counsel for the petitioner.

Mr. Shushil Vashistha, learned S.C. for the State.

### **Hon'ble Pankaj Purohit, J.**

This writ petition has been filed by the petitioner for calling the record and quashing the impugned PPO forwarding letter dated 17.03.2023, annexure no.1 to the writ petition, issued by respondent no.5-Treasury Officer, District-Rudraprayag, so far as it relates to recovery of ₹7,66,282/- from the gratuity amount along with admissible interest which the respondent-Department has recovered from the petitioner.

2. The facts of the case in brief are that the deceased husband of the petitioner Late Sri Laxmi Prasad Thapliyal was appointed as Headmaster on 01.07.1986 in the then Janta Junior High School, Vijaygarh, District Rudraprayag. The then District Basic Adhikari Shiksha vide letter No.शि०स०/1700/88-89 dated 29-06-1988 granted approval to the ad-hoc appointment of the petitioner's husband. After completing the probation period the then management of the school vide letter no.111/91-92 dated 16.04.1991 gave regular appointment to the petitioner on the post of Headmaster w.e.f. 01.07.1989. Late Sri Laxmi Prasad Thapliyal was granted selection grade vide letter no. आ०सा०/4311-12/97-98 dated 21.11.1997, w.e.f. 01.07.1996



and the promotional pay scale vide letter no. आ०सा०/से० अराज०-3/ चयन वेतनमान/ 147/2009-10 01.07.2008. dated 28.05.2009, w.e.f. After attaining the age of superannuation the husband of the petitioner late Sri Laxmi Prasad Thapliyal retired on 31.01.2022 and died on 24.08.2023 leaving behind his wife i.e. the present petitioner and one son Sri Mahendra Prasad. The institution Government Upper Primary School, Vijaygarh, District Rudraprayag (earlier known as Janta Junior High School, Vijaygarh) where the petitioner's husband worked throughout his service, came under grant-in-aid vide Government Order no.214/28-2-90-31(27) 88 dated 21.03.1990 and the aforesaid institution was provincialized vide Government Order No.187/XXIV(1)/2014-41/2005 TC dated 22.02.2014. After attaining the age of superannuation the husband of the petitioner late Sri Laxmi Prasad Thapliyal retired on 31.01.2022 from the post of Headmaster and died on 24.08.2023. After retirement the retiral due were not paid to late Sri Laxmi Prasad Thapliyal for long time, but after so many representation the same was paid to him on 17.03.2023, but surprisingly the department made recovery of Rs. 7,66,282/- from the gratuity amount of the petitioners Husband and that too without showing any reason and also without giving any notice to the petitioner's husband. The husband of the petitioner approached the department and requested them for returning the amount illegally recovered from his gratuity amount, but to no avail and meanwhile he died on 24.08.2024 and after his death the son of the petitioner i.e. Sri Mahendra Prasad made undated representation, but to no avail. Hence this writ petition.

3. Learned counsel for the petitioner submits that



all the service benefits, whatsoever have been granted to the petitioner, have legally been granted to him and otherwise also, assuming without admitting, if he is granted the some benefits wrongly, even then, as he did not received the same by playing fraud and misrepresentation, therefore the department cannot make recovery of the same and that is what the Hon'ble Supreme Court has held in the case of *State of Punjab Versus Rafiq Masih*, reported in 2015 (4) SCC 334 and in the Judgement and order dated 04.04.2025 passed in Civil Appeal No.4989 of 2025 (SLP Civil No.5918 of 2024) (*Jogeswar Sahoo and others Versus The District Judge, Cuttack and others*). In the abovementioned case the Hon'ble Apex Court has held that the recovery from the class III and IV employees cannot be made, if the employee did not receive the same by playing fraud and misrepresentation. Here also, in the instant case the petitioner's husband didn't play any fraud and misrepresentation, rather he was rightly given the service benefits. The action of the respondents, besides being illegal, unjust, arbitrary, is also against the principles enunciated by the Hon'ble Supreme Court. It is also submitted that the respondent department before making recovery did not serve any notice to the petitioner's husband. In other words, no opportunity of hearing was given to the petitioner's husband while making recovery, which is against the principles of natural justice.

4. Learned counsel for the State however submits that upon enquiry of the pay fixation of the petitioner's husband it was found that the basic pay of the petitioner's husband had been at ₹31,120/- as on 31.12.2015 due to wrong pay fixation the petitioner's husband was receiving a basic pay of ₹33,150/-, therefore a total recovery of excess payment amounting to ₹7,66,282/- upto January, 2022 was made from the petitioner's husband.



5. Having heard the contentions of learned counsel for the parties and after perusal of material available on record, this Court is of the view that the case of the petitioner is squarely covered by the judgment of Apex Court in the case of *State of Punjab Versus Rafiq Masih*, reported in 2015 (4) SCC 334 and in the judgment and order dated 04.04.2025 passed in Civil Appeal No.4989 of 2025 (SLP Civil No.5918 of 2024) (*Jogeswar Sahoo and others Versus The District Judge, Cuttack and others*). In these cases it has been categorically held that if excess payment has been made to Class III and IV employees and they were not involved in any fraud or misrepresentation regarding the same no recovery shall be made from them. In the case in hand it is nobody's case that the petitioner's husband was involved in fraud or misrepresentation regarding the excess payment and fixation of excess basic pay, therefore this writ petition is allowed.

6. Accordingly, the impugned order dated 17.03.2023 is hereby quashed to the extent of recovery of ₹7,66,282/- and a writ of mandamus is issued directing the respondents to repay the amount of ₹7,66,282/- which has been deducted from his retiral dues without any fault of him, therefore the amount recovered, shall be released in his favour within ten weeks from the date of presentation of certified copy of this order.

**(Pankaj Purohit, J.)**

18.08.2026

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