

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.4781 of 2014**

- Jailendra Prasad Singh S/o Lt Shri B.R.Singh Aged About 57 Years R/o Gandhinagar, Ps Gandhinagar, Distt Surguja, Cg

---- Petitioner

Versus

1. State Of Chhattisgarh Through the Secretary, Women and Child Development, Mantralaya, New Raipur, P.S. Rakhi, District Raipur (CG)
2. The Accountant General Chhattisgar Raipur, Dist Raipur, Cg
3. The Collector Ramanujganj, Distt Balrampur- Ramanujganj, Cg
4. The Divisional Joint Director Treasury, Account And Pension, Ambikapur, Distt Surguja, Cg

---- Respondents

For Petitioner	:	Shri Ajay Kumar Pandey, Advocate
For Respondent No.1, 3 & 4:	:	Shri D. R. Minz, Dy.GA
For Respondent No.2	:	Shri Rajkumar Gupta, Advocate

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****28/09/2016**

Heard.

2. Learned counsel for petitioner submits that in view of recent judicial pronouncement of the Supreme Court in the case of ***State of Punjab and Others vs. Rafiq Masih (White Washer) and others***¹, in which, the Supreme Court has clearly laid down that recovery against Class IV employee, after their retirement, is not permissible under the law.

3. In the case of ***State of Punjab and Others*** (supra), the Supreme Court has authoritatively pronounced as under:-

1 (2015) 4 SCC 334

18. "It is not possible to postulate all situation of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:-

- (i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).
- (ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.
- (iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.
- (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.
- (v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

4. In view of above, the respondents are directed to examine the case of the petitioner and pass appropriate order in the matter by the respondent No.4 within a period of six weeks and thereafter, dues of the petitioner may be paid forthwith.

5. With the aforesaid direction, the petition is finally disposed off.

SD/-

(Manindra Mohan Shrivastava)

Judge