

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 706 of 2015**

Vidyasagar Tiwari S/o Late Shri Ramvilas Tiwari, aged about 62 years,
Retd. Training Superintendent, Resident of near Govt. Polytechnic,
Namnakala, Ambikapur, Tahsil Ambikapur, Civil and Revenue District
Sarguja C.G

---- **Petitioner****Versus**

1. State of Chhattisgarh through Secretary, Human Resource Department,
Mahanadi Bhawan, Naya Raipur, Civil and Revenue District Raipur,
C.G.
2. Joint Director, Treasury (Pension and Accounts), Ambikapur, Dist.
Sarguja C.G. Civil and Revenue District Sarguja C.G.
3. Joint Director (Training) Industrial Training Institute, Regional Office
Ambikapur

---- **Respondents**

For Petitioner	:	Ms. Savita Panjabi, Advocate
For Respondent/State	:	Shri Adhiraj Surana, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****07.05.2018**

The challenge in the present writ petition is to the order of recovery dated 10.02.2015 Annexure P-3.

2. Brief facts of the case are that the petitioner in the instant case retired from service as a Training Superintendent from ITI, Chirmiri, District Korba w.e.f. 31.01.2015. It is alleged that the petitioner in the course of being granted the benefit of pay fixation as per the Chaudhary Pay Commission's report has been granted some excess payment between April 2006 to January 2015 to the extent of Rs.39,623/-. The impugned orders Annexure P-

1 to P-3 have been issued initiating the recovery proceedings in this regard.

3. Counsel for the petitioner submits that the present writ petition is squarely covered by the decision of the Supreme Court in the case of **State of Punjab and others etc. vs. Rafiq Masih (White Washer) and Others.** reported in **(2015) 4 SCC 334.**

4. From Annexure P-3 it is reflected that the first erroneous fixation of pay crept in April, 2006 i.e. almost 9 years prior to his date of retirement. It also reflects that the erroneous fixation of pay has not been made to the petitioner by virtue of any misrepresentation or fraud played by the petitioner.

5. In the light of the afore given facts this Court has no hesitation in reaching to the conclusion that the case of the petitioner squarely falls within the situations which have been carved out by the Supreme Court in the case of Rafiq Masih (supra). Thus, it becomes impermissible under law for the respondents to initiate recovery proceedings. The impugned orders accordingly are not sustainable and the same deserve to be and are accordingly set aside.

6. In the light of the recovery notice getting quashed by this court, it is directed that the respondents shall forthwith process the case of the petitioner and settle the entire retiral dues payable to the petitioner forthwith preferably within a period of 90 days from today. He would also be entitled for interest at the rate of 9% per annum on all the dues which shall now be cleared by the respondents.

7. The writ petition stands allowed.

Sd/-
P. Sam Koshy
Judge