CGHC010231542026 2026:CGHC:43428

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4739 of 2026

Gaurmati Sahu W/o Shri D. R. Sahu Aged About 63 Years Retired Supervisor (Female), Primary Health Centre, Sonthi Block- Bamhnidih, District - Janjgir-Champa (C.G.), R/o Vikas Bhawan, Chandupara, Bhojpur, Near Damoh Church, Champa, District- Janjgir-Champa (C.G.)

Petitioner(s)

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Versus

1 - State Of Chhattisgarh Through The Secretary, Ministry Of Public Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)

2 - Director Health Services, North Block, Sector-19, Swasthya Bhawan, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)

3 - Divisional Joint Director Health Services, Bilaspur, District- Bilaspur (C.G.)

4 - Collector Janjgir, District Janjgir-Champa (C.G.)

5 - Chief Medical And Health Officer Janjgir, District- Janjgir-Champa (C.G.)

6 - Block Medical Officer Community Health Center, Bamhnidih, District- Janjgir-Champa (C.G.)

7 - Divisional Joint Director Treasury, Accounts And Pension, Bilaspur, District - Bilaspur (C.G.)

8 - District Treasury Officer Janjgir, District - Janjgir-Champa (C.G.)

Respondent(s)

(Cause-title taken from CIS)

For Petitioner(s)	**:**	Mr. Anukul Biswas, Advocate
For Respondent(s)	**:**	Mr. Soumitra Kesharwani, PL

(HON'BLE SHRI JUSTICE BIBHU DATTA GURU)

Order on Board

07/10/2026

1. By the present writ petition, the petitioner is seeking quashment of recovery order dated 16.12.2025 (Annexure-P/1) issued by respondent No. 6 , whereby an amount of ₹ 6,39,301/- has been directed to be recovered on account of alleged excess payment.

2. Learned counsel for the petitioner submits that the petitioner, who has since retired from service while working at the Primary Health Centre, Sonthi, has called in question the order dated 16.12.2025, whereby an amount of ₹ 6,39,301/- has been directed to be recovered from her. Learned counsel for the petitioner further submits that the petitioner was granted the benefit of two advance increments, which she had been receiving since the year 1990. However, the impugned order dated 16.12.2025 has been passed after her retirement, directing recovery of the aforesaid amount, without affording her any opportunity of hearing. It is further submitted that the petitioner was a Class-III employee and that the two advance increments were granted to her on account of her having undergone sterilization after having one child on 01.02.1990. Accordingly, the benefit of two advance increments was extended to her with effect from 01.02.1990.

3. Learned counsel appearing for the respondents, referring to the return, submits that the Treasury Officer had raised an objection to the grant of the aforesaid two advance increments on the ground that no formal order granting such benefit was available on record. It is submitted that, in the absence of such

formal order, the benefit was treated as having been irregularly granted and, consequently, the impugned order of recovery came to be passed. Though, learned counsel for the State fairly submits that the petitioner had not given any undertaking at the time of joining the service consenting to recovery of any excess payment.

4. In reply, learned counsel for the petitioner submits that merely because a formal order granting the two advance increments is not available in the departmental record, the petitioner cannot be held responsible for the same. The benefit was granted to her by the competent authorities and continued to be paid to her for several decades. The petitioner had neither played any role in sanctioning or processing the said benefit nor committed any misrepresentation or fraud for obtaining the same. Therefore, any lapse, if at all, on the part of the department in not maintaining or producing the formal sanction order cannot be attributed to the petitioner. It is further submitted that the impugned order of recovery, particularly after the petitioner's retirement and without affording her an opportunity of hearing, is contrary to the settled principles of law and is liable to be set aside in view of the law laid down by the Supreme Court in **State of Punjab and others V. Rafiq Masih (White Washer) and others, reported in (2015) 4 SCC 334.**

5. I have heard learned counsel for the parties and perused the pleadings and the documents annexed.

6. The Supreme Court in case of **Rafiq Masih(supra)** has observed thus:

> *"10. In State of Punjab v. Rafiq Masih (Supra) this Court held that while it is not possible to postulate all situations of hardship where payments have mistakenly been made by an employer, in the*

following situations, a recovery by the employer would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from 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.

7. It is an undisputed fact that the benefit of two advance increments was granted to the petitioner with effect from 01.02.1990 on account of her having undergone sterilization after having one child. It is also undisputed that no undertaking was ever furnished by the petitioner consenting to recovery of any excess payment made to her.

8. In the present case, admittedly, the petitioner was a Class-III employee and has already retired from service. The alleged excess payment pertains to the benefit of two advance increments granted to her with effect from 01.02.1990, which continued to be paid for several decades. The recovery has been directed only after her retirement. Thus, the case of the petitioner falls

within more than one of the categories enumerated by the Supreme Court in ***Rafiq Masih (supra)***, wherein recovery of excess payment has been held to be impermissible.

9. It is also not the case of the respondents that the petitioner had obtained the benefit of the aforesaid increments by way of any misrepresentation or fraud. Merely because the formal order granting such benefit is not presently available in the departmental record, the petitioner, who had no role in the maintenance or preservation of such record and who continued to receive the benefit for several decades, cannot be made to suffer on that account.

10. In view of the aforesaid facts and circumstances, particularly considering that the petitioner was a Class-III employee, has already retired from service, the benefit in question had been extended to her since the year 1990, and there is neither any allegation of fraud or misrepresentation on her part nor any undertaking furnished by her consenting to recovery of excess payment, the impugned recovery order dated 16.12.2025 (Annexure-P/1) cannot be sustained and is, accordingly, set aside.

11. Consequently, the writ petition is **allowed**. The respondents are restrained from effecting any recovery from the petitioner pursuant to the impugned order dated 16.12.2025 (Annexure-P/1). In case any amount has already been recovered pursuant thereto, the same shall be refunded to the petitioner.

Sd/-

(BIBHU DATTA GURU)
JUDGE

Rahul