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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 3255/2026, CM APPLs. 15661/2026, 15662/2026 & 15663/2026

UNION OF INDIA AND ORS .....Petitioners

Through: Ms. Madhusmita Bora, Adv.

versus

ASSOCIATION OF RADIO AND TELEVISION ENGINEERING EMPLOYEES AND ANR .....Respondents

Through: Dr. Ashwani Bharadwaj and Ms. Sarika Suman, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **13.04.2026**

C.HARI SHANKAR, J.

1. The issue in this case is squarely covered by the judgment of the Supreme Court in ***State of Punjab v. Rafiq Masih***[1].

2. Respondent 1 is the Association of Radio and Television Engineering Employees[2] and, in accordance with the rules applicable to the Central Administrative Tribunal[3], Respondent 2 is one of the Members of the Association.

[1] **(2015) 4 SCC 334**
[2] "the Association", hereinafter
[3] "the Tribunal", hereinafter

3. The case set up by the respondents before the Tribunal in OA 3035/2015, from the judgment dated 28 August 2025 rendered in which the present writ petition emanates, was that the third financial upgradation under the Modified Assured Career Progression[4] Scheme, which was correctly extended to them *vide* orders dated 18 February 2010, 12 August 2010, 9 March 2011, 4 October 2011, 25 October 2013, and 7 May 2014, was unlawfully withdrawn, and recoveries of the said amounts initiated. The withdrawal was apparently on the basis of a clarification dated 18 March 2015, issued by the Director General, All India Radio[5], to the effect that ten years of residency in one grade pay was mandatory for each financial upgradation. According to the respondents, this clarification was in the teeth of paragraph 28 of the MACP Scheme which envisaged grant of the second and third financial upgradation prior to the completion of 20 and 30 years of service (as was usually required), where the employee was granted his first promotion prior to the expiry of ten years of service.

4. On the ground that the third financial upgradation had been granted to the Members of the Association prior to their completing ten years of service after their second financial upgradation, the third financial upgradation was withdrawn by order dated 20 July 2015 passed by the Additional Director General (E) (North Zone), Akashwani and Doordarshan[6], and the alleged excess payment was directed to be recovered.

5. In its OA, the Association contested the correctness of the

[4] "MACP", hereinafter
[5] "DG", hereinafter
[6] "ADG", hereinafter

decision to withdraw the third financial upgradation granted to its Members and to effect recoveries thereof. It was submitted that the DG, AIR was not competent to modify the terms of the MACP Scheme, as had been done by the Circular dated 18 March 2015. It was also submitted that employees in other offices were allowed to retain their MACP benefits and that, therefore, the respondents had been selectively discriminated.

6. Apropos recovery, the respondents placed reliance on the judgment of the Supreme Court in ***Rafiq Masih***, paragraph 18 of which proscribed such recoveries. Paragraph 18 of ***Rafiq Masih*** may be reproduced thus:

> "18. It is not possible to postulate all situations 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:
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> (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."

7. The petitioners contended, before the Tribunal, *per contra*, that the Department of Personnel and Training[7] had, in its clarificatory Office Memorandum[8] dated 10 September 2013, made it clear that, notwithstanding the illustrative examples contained in para 28 of the MACP Scheme, the third financial upgradation under the MACP Scheme was admissible only after the officer/employee had competed ten years of service in one grade pay or 30 years of total service, whichever was earlier. The DG, AIR circular dated 18 March 2015 merely reiterated what was already contained in the DOPT OM dated 10 September 2013. The Members of the Association, whose third financial upgradation under the MACP Scheme had been cancelled, and from whom recoveries were proposed, were persons who had not completed ten years of service in the same grade pay at the time when they were granted third financial upgradation under the MACP Scheme. Accordingly, the petitioners contended before the Tribunal that there was no illegality in the decision to withdraw the third financial upgradation or to effect recoveries thereof.

8. By the impugned order dated 28 August 2025, the Tribunal allowed the respondents' OA. The Tribunal held that the petitioners erred in treating one upgraded scale at par with the MACP Scheme. It was also noted that the case was covered by the judgment of this

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[7] "DOPT", hereinafter
[8] "OM" hereinafter

Court in ***Manju Vashistha v. Union of India***[9], which the petitioners had unsuccessfully attempted to distinguish. The Tribunal further held that the petitioners could not have withdrawn the third financial upgradation granted to the respondents under the MACP Scheme without a show cause notice to them.

9. In that view of the matter, the Tribunal set aside the orders dated 18 March 2015 and 20 July 2015 and directed restoration of the amount of third financial upgradation granted to the respondents under the MACP Scheme if it had been recovered and further injuncted the petitioners from any further recovery. Aggrieved thereby, the petitioners have approached this Court by means of the present writ petition.

10. We have heard Ms. Madhusmita Bora, learned counsel for the petitioner and Dr. Ashwani Bharadwaj, learned counsel for the respondents.

11. It is not necessary for us to enter into the aspect of whether the third financial upgradation had correctly been extended to the respondents as the legality of the impugned orders and the recoveries effected from the respondents stand covered by the judgment of the Supreme Court in ***Bhagwan Shukla v. UOI***[10] and ***Rafiq Masih***. Before this Court, the petitioners, in support of the petition, assert firstly that the respondents had been put on notice that the excess payments, if any, would be recovered from them so that they could not

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[9] Judgment dated 23 May 2016 in **OA 1288/2014**
[10] **(1994) 6 SCC 154**

get the benefit of the decision in ***Rafiq Masih,*** in view of the subsequent declaration of law in ***High Court of Punjab and Haryana v. Jagdev Singh***[11] and secondly, as per the law declared in ***Chandi Prasad Uniyal v. State of Uttarakhand***[12]**,** excess payment made to an employee due to irregular pay fixation was always recoverable.

12. Having heard learned counsel for the parties and examined the legal position, we find no cause to interfere with the impugned judgment.

13. The respondents are Group C employees.

14. Category (i) in Para 18 of ***Rafiq Masih*** clearly proscribes recovery of any excess payments made to Group C and Group D employees.

15. ***Rafiq Masih*** has been rendered after noticing the judgment in ***Chandni Prasad Uniyal.***

16. As such, we fail to understand how the petitioner is again seeking to rely on ***Chandni Prasad Uniyal*** to overcome the law laid down in ***Rafiq Masih***.

17. Insofar as the decision in ***Jagdev Singh*** is concerned, it is clear from the said decision that it applies only to category (ii) in para 18 of ***Rafiq Masih*** which deals with recovery from retired employees. The

[11] (2016) 14 SCC 267
[12] (2012) 8 SCC 417

relevant paragraphs from ***Jagdev Singh*** may be reproduced as under:

> "11. The principle enunciated in Proposition (ii) above cannot apply to a situation such as in the present case. In the present case, the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. The officer furnished an undertaking while opting for the revised pay scale. He is bound by the undertaking."

18. In fact, this Court has recently taken this view in ***Ravinder Kumar v. State (NCT of Delhi)***[13].

19. Admittedly, in the present case, the recovery is not from retired employees.

20. There is, therefore, no error in the impugned judgment of the Tribunal.

21. The writ petition is dismissed in *limine* without issuing notice.

C.HARI SHANKAR, J

OM PRAKASH SHUKLA, J

APRIL 13, 2026/*AT/aky/yg*

[13] **2024 SCC OnLine Del 8288**