

**IN THE HIGH COURT OF MADHYA PRADESH**  
**AT GWALIOR**  
**BEFORE**  
**HON'BLE SHRI JUSTICE ASHISH SHROTI**  
**WRIT PETITION No.1220 OF 2021**  
***DINESH CHANDRA SHARMA***  
*Versus*  
***STATE OF MADHYA PRADESH AND OTHERS***

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**Appearance:**

*Shri A.K. Shrama – learned counsel for the petitioner.*

*Shri G.K. Agrawal - Govt. Advocate for the State.*

*Shri Nitin Agrawal- Advocate for respondents no.5 and 6.*

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<b>Reserved on</b>	<b>:</b>	<b>08/09/2025</b>
<b>Delivered on</b>	<b>:</b>	<b>23/09/2025</b>

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**ORDER**

1. The petitioner has filed this writ petition challenging order dated 20/08/2020 (Annexure-P/1), whereby his pay has been revised and consequently reduced. The petitioner has also challenged the order dated 29/12/2020 (Annexure-P/2), whereby an amount of Rs.26,22,324/- has been directed to be recovered from him on account of excess payment made to him as a result of revision of his salary vide Annexure-P/1. Thus, the petitioner has raised following two issues for consideration of this Court:

“1. Whether the action of the respondents in revising his pay scale right from his date of appointment i.e.

15/01/1993 is legal and valid?

2. Whether, the action of the respondents in directing recovery of amount of Rs.26,22,324/- as a result of revision of his salary, is legal and valid?"

2. So far as first issue with regard to the revision of pay scale is concerned, it is worth mentioning here that initially in the year the 1967 the Government of Madhya Pradesh created Ministerial Cadre in the State Police Force. One K.G. Duraphe, a retired D.S.P., filed an O.A. No.45/1998 before the *erstwhile* State Administrative Tribunal claiming benefit of *ad-hoc* increase of pay of Rs.70/- at the time of fixation of his salary in Chaudhary Pay Commission. The O.A. was allowed by the Tribunal. Consequently, the Government of Madhya Pradesh issued an order on 28/08/2000 directing fixation of pay of all ministerial employees w.e.f. 01/04/1981 while granting aforesaid benefit.

3. Resultantly, the benefit of higher pay scale was given to all ministerial cadre employees in the Police department. The litigation as initiated pursuant to the order passed by the Tribunal went up to the Apex Court and was ultimately settled by the judgment passed by the Apex Court in the case of **S.H. Baig & others vs. State of M.P. & others** reported in **(2018)10 SCC 621**. The Apex Court has upheld the action of respondents/State in denying the benefit of higher pay scale to the ministerial cadre employees. The impugned order dated 20/08/2020 (Annexure-P/1) has been issued by the respondents in compliance with the Apex Court's judgment. This Court has already upheld the action of the respondents in revising the pay scale in the similar W.P. No.5506/2024 and bunch of similar writ petitions.

4. The petitioner tried to distinguish his case on the ground that after

re-organization of the erstwhile State of Madhya Pradesh in the year 2000, he was allocated to the State of Chhattisgarh. Later on, based upon the mutual request, he was transferred/allocated to the existing State of Madhya Pradesh vide order dated 25/05/2005. Consequently, he joined in the State of Madhya Pradesh on 02/06/2005. Eventually, the petitioner was transferred and posted in 17<sup>th</sup> Battalion S.A.F., Bhind on 07/08/2009. He is still working in the State of Madhya Pradesh.

5. It is the case of the petitioner that in the State of Chhattisgarh the financial benefits are same for Ministerial as well as Executive Cadre Employees in the Police department and, therefore, upon his allocation in the year 2005, he cannot be put to disadvantageous position in matter of fixation of his salary. He, thus, claims that he is entitled to get the same financial benefit as has been paid to his counter parts in the State of Chhattisgarh.

6. The learned counsel for the petitioner tried to convince this Court with regard to the petitioner's claim for payment of higher pay scale relying upon the order dated 04/07/2005 (Annexure- P/3) issued by the Finance Department of the State of Chhattisgarh wherein it has been decided to extend the same benefit to the Ministerial Cadre Employees. He also placed reliance upon the order passed by the Chhattisgarh High Court on 07/05/2009 (Annexure-P/9) wherein recovery in the similar cases has been quashed by the Chhattisgarh High Court.

7. The learned counsel for petitioner also submitted that even if the revision of pay scale is upheld, the recovery of excess amount paid to the petitioner is not liable to be recovered in view of order passed by this Court in the case of W.P. No.5506/2024 and other connected similar writ petitions.

8. On the other hand, learned counsel for the respondents/State supported the impugned action of the respondents and submitted that the issue with regard to pay scale payable to the Ministerial Cadre Employees has been settled up to the Apex Court in the case of **S.H. Baig (supra)** and, therefore, the petitioner cannot claim higher pay scale which is not applicable in the State of Madhya Pradesh. He further submitted that in the State of Madhya Pradesh, the benefit of higher pay scale given to all the ministerial cadre employees has been withdrawn in view of the Apex Court judgment in the case of **S.H. Baig (supra)** and, therefore, since the petitioner also became the employee of the State of Madhya Pradesh, he is entitled to the same pay scale as is being given to his counter parts in the State of Madhya Pradesh.

9. Considered the arguments and perused the record.

10. The petitioner's claim for higher pay scale is based upon the order dated 04/07/2005 (Annexure-P/3) issued by the Finance Department of the State of Chhattisgarh. Pertinently, the petitioner was allocated to the State of Madhya Pradesh on 25/05/2005 and thus, he ceased to be employee of State of Chhattisgarh and became employee of State of Madhya Pradesh from the said date. Thus, any order issued by the State of Chhattisgarh after his allocation, would not confer any benefit to the petitioner. So far as the order passed by the High Court of Chhattisgarh is concerned, High Court has only quashed the direction for recovery of the amount. The similar view has been taken by this Court also so far as the recovery of excess amount is concerned.

11. The petitioner was admittedly appointed as Assistant Sub-Inspector in the Ministerial Cadre of Police Department. So far as, the second issue regarding recovery is concerned, the same has already been

dealt with by the Division Bench of this Court at Principal Seat in the case of **State of M.P. & others vs. Ramrao Bhimte** in **W.A No.1657/2025** and order is followed by the Division Bench at Gwalior in the case of **State of M.P. & others vs. Sanjay Naithani & others** in **W.A. No.1765/2025**. The recovery in the similar case has been quashed.

In paragraph 17 & 18, the Division Bench at Jabalpur held as under:-

"17. In view of the above discussion, we found no infirmity in the order passed by learned Single Judge. The impugned order has been passed after considering the judgment delivered by the Full Bench in the matter of Jagdish Prasad Dubey (supra), wherein the judgment delivered by Supreme Court in the matter of Rafiq Masih (supra) was relied on. We are in agreement with the findings recorded by learned Single Judge that the recovery from the respondent after retirement was not permissible.

18. In our view, the judgment delivered by the Supreme Court in the matter of Rafiq Masih (supra) is squarely applicable to the case in hand irrespective to the fact that respondent was employee of Ministerial cadre of M.P. State Police. The Supreme Court has held that no recovery is permissible from a retired employee of Class III or Class IV, if any amount is paid to him erroneously during this service period. In the matter in hand, respondent was superannuated on 30.06.2017, whereas recovery order was issued after a period of seven years on 26.09.2024, which cannot be given a seal of approval."

12. Considering the aforesaid two Division Bench judgments, this Court has already disposed off bunch of similar writ petitions one of such writ petition was W.P. No.5506/2024.

13. Considering the aforesaid, since the issue with regard to recovery of excess of amount from Ministerial Cadre Employee has already been settled by the Division Bench as well as by this Court, the order dated 29/12/2020 (Annexure-P/2).

14. Considering the aforesaid, order dated 20/08/2020 issued by the respondents cannot be said to be illegal or otherwise unsustainable in law rather it is in consonance with the order passed by the Apex Court in the case of **S.H. Baig (supra)**. The same is accordingly, upheld. Further, as result of setting aside of the order dated 29/12/2020 (Annexure- P/2), if any amount has been recovered from the petitioner, the same be refunded to him together with the interest at the rate of 6% per annum from the date of recovery till actual payment of the same.

15. With the aforesaid, this writ petition stands partly allowed and disposed off.

**(ASHISH SHROTI)**  
**JUDGE**

**rahul**