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WP-18829-2017

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE MANINDER S. BHATTI

ON THE 15th OF JANUARY, 2026WRIT PETITION No. 18829 of 2017*ROHANI PRASAD PATEL**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Sachin Pandey - Advocate for the petitioner.

Shri Hitendra Singh - G.A. for the respondent/State.

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ORDER

The petitioner, who superannuated on 31.01.2017 while working as Sub-Inspector, is questioning the recovery which has been carried out after retirement. Counsel for the petitioner contends that the said course was not available with the respondents as there could not have been any recovery from a retired employee in view of the decision of the Apex Court in the case of **State of Punjab and others vs Rafiq Masih and others reported in 2015 (4) SCC 334** as well as in view of decision of the Full Bench of this Court in **W.A. No. 815 of 2017 (State of M.P. and others Vs. Jagdish Prasad Dubey)** vide order dated 06.03.2024.

2. Learned counsel for the State does not dispute that the law is no more *res integra*. However, counsel submits that there may be some undertaking by the present petitioner which enabled the respondents to carry out the recovery. Therefore, in view of the aforesaid, the petitioner is



precluded from questioning the recovery.

3. Having considered the submission and perusal of the record reflects that it is being noticed that a number of petitions are being filed despite the decision of the Apex Court in the case of **Rafiq Masih (supra)** as well as the decision of the Full Bench of this Court in **W.A. No. 815 of 2017 i.e. Jagdish Prasad (Supra)** and the issue is no more *res integra* that there cannot be recovery from the employees belonging to Class-III and Class-IV as well as the retired employees or the employees who are due to retire in one year from the date of recovery.

4. Despite the aforesaid clear-cut directions, in a routine manner, the Pension Officers are passing orders of recovery while issuing PPOs. Therefore, it is the need of hour that in the entire State of Madhya Pradesh, District Pension Officers be apprised of this aspect of the matter whereby the Apex Court as well as Full Bench has issued directions that there cannot be any recovery from Class-III and Class-IV as well as from the employees who have retired or are due to retire within one year from the date of order of recovery.

5. Accordingly, the impugned order dated 12.01.2017 contained in Annexure P/1 stands quashed. The amount, if any, recovered on the strength of the impugned order dated 12.01.2017, be refunded to the petitioner within 60 days from today, along with the interest of 6% per annum.

6. In view of the aforesaid observations, as the entire District Pension Officers spread over the State of Madhya Pradesh are required to be apprised of the decisions of the Apex Court in the case of **Rafiq Masih (supra)** as well



as the Full Bench of this Court in *Jagdish Prasad (Supra)*, the counsel for the respondent/State is requested to communicate this order to Chief Secretary, who in turn, shall take steps for communicating the said directions/orders to the entire District Pension Officers in the entire State of Madhya Pradesh so as to avoid the unnecessary litigations in future.

7. Accordingly, the petition stands **allowed**.

8. A copy of the said order be supplied to the counsel for the respondent/State for communication and necessary compliance.

(MANINDER S. BHATTI)
JUDGE