

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE  
HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL**

**ON 2<sup>ND</sup> OF APRIL, 2025**

**WRIT PETITION No. 10 of 2022**

***NILAMCHAND AGNEY***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

---

**Appearance**

*Shri Ram Naresh Vishwakarma - Advocate for the petitioner..*

*Shri Anshuman Swamy - Government Advocate for the respondents/State.*

---

**ORDER**

This writ petition has been preferred by the petitioner challenging the recovery being made pursuant to the correspondence/calculation sheet (Annexure P-9), on account of incorrect pay-fixation done by the respondents.

2. By placing reliance on the decisions of Hon'ble Supreme Court in the case of State of Punjab & Others vs. Rafiq Masih (Whitewasher) and others, (2015) 4 SCC 334 and of Full Bench of this Court pronounced on 06.03.2024 in W.A. No.815/2017 (State of M.P. and Ors. vs. Jagdish Prasad Dubey), learned counsel for the petitioner submits that recovery is being made as against wrong fixation of pay and as the petitioner did not give any undertaking for the same, therefore, no recovery can be made against the petitioner.

3. In pursuance of the order dated 17.03.2025 passed by this Court in the instant petition, an application for taking documents on record (I.A. No.4898/2025) has been filed, annexing an undertaking dated 13.04.2009, which is in relation to pay fixation done as per M.P. Pay Revision Rules, 2009 and not in respect of re-fixation of pay done w.e.f. 01.07.2009 till June, 2014, on account of which recovery is ordered.

4. In view of aforesaid factual and legal scenario, in my considered opinion in absence of any undertaking, no recovery can be made from the petitioner, as has been held by Full Bench of this Court on 06.03.2024 in **W.A. No.815/2017** (State of M.P. and Ors. vs. Jagdish Prasad Dubey).

5. Accordingly, the writ petition is **allowed and disposed off**.

6. If the recovery is already made, then it be refunded to the petitioner along with interest @ 6% p.a. within 30 days from the date of receipt of certified copy of this order.

7. Misc. application(s), pending if any, shall stand closed.

**(DWARKA DHISH BANSAL)**  
**JUDGE**