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WA-2475-2025

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,  
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 30<sup>th</sup> OF OCTOBER, 2025

WRIT APPEAL No. 2475 of 2025

*THE STATE OF MADHYA PRADESH AND OTHERS*

*Versus*

*TULSI RAM NARETI*

.....  
Appearance:

*Dr. S.S. Chauhan - Government Advocate for Appellants/State.*  
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ORDER

*Per. Hon'ble Shri Justice Vinay Saraf*

1. Instant intra Court appeal is preferred by State of M.P. and others assailing order dated 09.07.2024 passed by learned Single Judge in W.P. No.25469 of 2019, whereby the writ petition preferred by the respondent challenging the recovery from his retiral dues was allowed with a direction to refund the amount alongwith interest to the respondent.

2. Heard on I.A. No. 16136/2025, which is an application for condonation of delay occurred in filing the present appeal. As per office report the present appeal is barred by 317 days.

3. Considering the reasons assigned in the application, which is duly supported by the affidavit, application is allowed and the delay is hereby condoned.

4. Heard Shri S.S. Chauhan, Government Advocate on behalf of the appellants/State on the question of admission.



5. Respondent preferred the writ petition under Article 226 of the Constitution of India assailing the recovery of sum of Rs. 7,91,905/- from his retiral dues on account of erroneous pay fixation and excess payment made to him during his service period. The respondent was working on the post of Principal in the office of District Education Officer and superannuated on 28.02.2019. At the time of calculation of retiral benefits payable to the respondent, the department recovered Rs.7,91,905/- on the ground of excess payment due to wrong pay fixation by order dated 25.03.2019. The said order was challenged by the respondent by preferring the writ petition, which was allowed on 09.07.2024 by the learned Single Judge relying upon the judgment delivered by the Supreme Court in the case of *State of Punjab & State of Punjab & Ors. Vs. Rafique Masih (2015) 4 SCC 334* and the Full Bench of this Court in *State of Madhya Pradesh & Anr. vs. Jagdish Prasad Dubey & Anr. in State of Madhya Pradesh & Anr. vs. Jagdish Prasad Dubey & Anr. reported in 2024 SCC OnLine MP 1567*. The learned Single Judge has further held that no recovery was permissible after the retirement on the ground of mistake committed in fixation of pay or excess payment of salary made erroneously. The learned Single Judge further held that the recovery was not permissible on the basis of the undertaking or in terms of Rule 65 of M.P. Civil Services Pension Rules, 1976. The petition was allowed and the direction was issued to refund the recovered amount alongwith interest @ 6% per annum from the date of recovery till date of payment and the pay fixation of the respondent/petitioner was maintained.

6. Shri S.S. Chauhan, learned Government Advocate submits that the learned Single Judge has erred in holding that the recovery was not permissible even on the basis of the undertaking executed by the employee on 13.04.1990. We note that in the present matter, the employee superannuated on 28.02.2019



and the alleged undertaking was executed on 13.04.1990 which cannot be enforced.

7. Learned Government Advocate further submits that the employee was Principal and, therefore, the law laid down in the matter of **Rafique Masih (supra)** is not applicable in the case of present employee.

8. We are unable to appreciate this argument advanced by learned Govt. Advocate as the Supreme Court in the matter of **Rafique Masih (supra)** has held that recovery from the retired employees or the employees who are due to retire within one year of the order of recovery is not permissible and, therefore, the judgment delivered in the matter of **Rafique Masih (supra)** is squarely applicable to the case in hand.

9. The order passed by the learned Single Judge is based on due appreciation of material available on record and the judgment delivered by Supreme Court and Full Bench of this Court. The order does not require any interference. There is no reason to interfere with the order passed by the learned Single Judge. Impugned order is just and proper.

10. Consequently, the admission is declined and the appeal is hereby dismissed. No order as to costs.

(SANJEEV SACHDEVA)  
CHIEF JUSTICE

(VINAY SARAF)  
JUDGE

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