IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 28th OF OCTOBER, 2026

WRIT APPEAL No. 2472 of 2026

CNR No.: MPHC010494962026

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

MOHAMMAD ASLAM

Appearance:

Shri Darshan Soni - Government Advocate for appellant.

Shri Atul Kumar Rai - Advocate for respondents.

WITH

WRIT APPEAL No. 1559 of 2026

CNR No.: MPHC010325942026

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

RAJESH KUMAR MISHRA

Appearance:

Shri Darshan Soni - Government Advocate for appellant.

Shri Atul Kumar Rai - Advocate for respondents.

WRIT APPEAL No. 1857 of 2026

CNR No.: MPHC010375742026

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

ASHOK KUMAR DUBEY

Appearance:

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Shri Darshan Soni - Government Advocate for appellant.

Shri Atul Kumar Rai - Advocate for respondents.

WRIT APPEAL No. 2858 of 2026

CNR No.: MPHC010570342026

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

SMT. ANITA CHOUDHARY

Appearance:

Shri Darshan Soni - Government Advocate for appellant.

Shri Atul Kumar Rai - Advocate for respondents.

WRIT APPEAL No. 2914 of 2026

CNR No.: MPHC010580552026

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

D.R.S. YADAV

Appearance:

Shri Darshan Soni - Government Advocate for appellant.

Shri Atul Kumar Rai - Advocate for respondents.

ORDER

Heard on 29.09.2026

Pronounced on 28.10.2026

Per. Pradeep Mittal J.

These five writ appeals, preferred by the State under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khandpeeth Ko Appeal) Adhiniyam, 2005, are directed against the orders dated 19.09.2025 passed by the learned Single Judge in W.P. No. 20815/2025 (Mohammad Aslam), W.P. No. 13943/2024 (Rajesh Kumar Mishra), W.P. No. 21249/2025 (Ashok Kumar Dubey), W.P. No. 20823/2025 (D.R.S. Yadav) and W.P. No.

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21528/2025 (Smt. Anita Choudhari). By those orders, the recovery of the principal amount of the Ad hoc increase of Rs.70/- in pay, paid to the respondents who belong to the Ministerial Establishment of the Police Department, has been quashed, consequently, the amount already recovered has been directed to be refunded.

2. As the appeals arise out of the same controversy and raise common questions of law, they are decided by this common order, W.A. No. 2472/2026 being treated as the leading case.

3. The applications for condonation of delay are also filed along with Writ Appeals by the State and are supported by reasons relating to verification of records and administrative approvals, and the controversy concerns public money and affects a large class of employees. Delay is accordingly condoned.

FACTS OF WA NO. 2472 OF 2026 ARE AS UNDER:

(i) That the writ petitioner was serving in the Ministerial Establishment of the Madhya Pradesh Police Force and retired from the post of Subedar (Ministerial) from the Office of the Superintendent of Police, PTS (MT), Bhopal, in the year 2005, he was granted the benefit of an additional basic pay of Rs.70/- by the Police Department with members of the Executive Police Force under the M.P. Revision of Pay Rules, 1983.

(ii) Vide communication dated 25.03.2006, directed withdrawal of the erroneously granted benefit and recovery of the excess payment made to the ministerial employees. The challenge to such withdrawals reached the Apex Court; Vide judgment dated 25.09.2018, the Hon'ble Supreme Court

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held that the ministerial employees are not entitled to parity with the executive police force and has affirmed the legality of the recovery.

(iii) That, consequently, recovery proceedings were initiated against the respondent and similarly placed police personnel vide order dated 08.12.2020, whereby recovery of the excess amount together with interest was directed to be effected in monthly instalments from the respondent's salary.

(iv) The respondent preferred W.P. No. 10530/2021 before this Hon'ble Court challenging the recovery proceedings. Vide order dated 16.07.2021, this Hon'ble Court was pleased to quash only the recovery of the interest component while specifically upholding the recovery of the principal amount. The said order attained finality, as the respondent did not challenge the same before any higher forum. That, in compliance with the aforesaid order dated 16.07.2021, the competent authority passed a consequential order dated 06.12.2024 directing recovery only of the principal amount of Rs.15,45,794/-.

(v) The respondent again approached this Hon'ble Court by filing W.P. No. 20815/2025 challenging the consequential order dated 06.12.2024, thereby seeking to reopen an issue that had already been conclusively adjudicated.

(vi) That learned Single Judge, vide the impugned order dated 19.09.2025, allowed the writ petition and quashed the recovery by relying upon the decision in Ramrao Bhimte.

FACTS OF WA NO. 1559 OF 2026 ARE AS UNDER

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(i) That the respondent is serving as Constable (Ministerial), Number 05, in the office of the Superintendent of Police, Radio Zone, Jabalpur, District Jabalpur (M.P.). He was granted the benefit of an ad hoc increase in salary pursuant to departmental orders issued by the Police Department in the year 2005.

(ii) That, upon scrutiny of the pay fixation and in compliance with the communication dated 25.03.2006 issued by the Home Department and the Finance Department circular dated 12.06.2020, it was found that excess payment had been made to the respondent. Accordingly, vide recovery order dated 18.09.2020, recovery of Rs.7,84,802/- towards principal and Rs.6,11,275/- towards interest, totalling Rs.13,96,077/-, was directed to be effected in monthly instalments from his salary.

(iii) That the respondent challenged the aforesaid recovery proceedings by filing W.P. No. 8814/2021 before this Hon'ble Court. Vide order dated 22.06.2021, this Hon'ble Court quashed only the interest component while specifically upholding the recovery of the principal amount. The said order attained finality.

(iv) That, in compliance with the aforesaid order, the competent authority passed a consequential order dated 12.04.2023 directing recovery of only the principal amount of Rs.7,84,802/- from the respondent.

(v) That, despite the aforesaid adjudication, the respondent again approached this Hon'ble Court by filing W.P. No. 13943/2024 challenging the recovery of the principal amount on the grounds that he belongs to Class-III cadre, the recovery was initiated after a considerable delay, no

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opportunity of hearing was afforded to him, and the pay fixation already approved by the Treasury authorities could not be reopened.

(vi) That the respondent also contended that he had furnished no declaration or indemnity bond at the time of grant of the ad hoc increase in salary and that the recovery was contrary to the principles laid down in State of Punjab v. Rafiq Masih.

(vii) That the appellants/State opposed the writ petition, contending that the respondent had furnished an undertaking in the year 2017 agreeing to refund any excess or erroneous payment made to him and that the issue regarding recovery of the principal amount had already attained finality in the earlier round of litigation.

(viii) That the learned Single Judge, vide impugned order dated 19.09.2025, allowed W.P. No. 13943/2024 and quashed the recovery by relying upon the judgment in Ramrao Bhimte. Being aggrieved by the said order, the State has preferred the present writ appeal.

FACTS OF WA NO. 1857 OF 2026 ARE AS UNDER

(i) That the respondent was serving as Sub-Inspector (Ministerial) in the Police Department and retired from service on 31.01.2025. He was granted the benefit of an ad hoc increase in salary in the year 2005, which was subsequently found to have been erroneously extended to ministerial employees of the Police Department.

(ii) That, pursuant to the departmental proceedings concerning the erroneous grant of the ad hoc increase, the competent authority passed the recovery order dated 06.12.2024, directing recovery of Rs.15,80,956/-

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towards the excess amount paid to the respondent.

(iii) That the aforesaid recovery order was passed before the respondent's retirement on 31.01.2025, and the amount of Rs.15,80,956/- was sought to be adjusted from his retiral dues.

(iv) That the respondent challenged the recovery proceedings by filing W.P. No. 21249/2025 before this Hon'ble Court, contending, inter alia, that he belonged to the ministerial cadre, the recovery was impermissible under the law laid down in State of Punjab v. Rafiq Masih, and the amount recovered from his retiral dues was liable to be refunded.

(v) That the appellants/State opposed the writ petition, contending that the issue concerning the grant of the ad hoc increase and consequential recovery from ministerial employees had already been adjudicated by this Hon'ble Court and the Hon'ble Supreme Court. It was further contended that the respondent had furnished a written undertaking in the year 2009 agreeing to refund any excess payment and that the recovery proceedings had commenced during his service tenure.

(vi) That the appellants further submitted that the respondent's retirement subsequent to the recovery order would not render the recovery proceedings illegal and that the judgment in Ramrao Bhimte was distinguishable on the facts of the present case.

(vii) That the learned Single Judge, vide impugned order dated 19.09.2025, allowed W.P. No. 21249/2025 and quashed the recovery by relying upon the judgment in Ramrao Bhimte. Being aggrieved by the said order, the State has preferred the present writ appeal.

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FACTS OF WA NO. 2858 OF 2026 ARE AS UNDER

(i) That the respondent, Smt. Anita Choudhari, was serving as Subedar (Ministerial) in the Police Department and retired from service on 31.12.2023. She had been granted the benefit of an ad hoc increase of Rs.70/- in basic pay along with the Executive Police Force pursuant to the departmental orders issued in the year 2005.

(ii) That the State Government subsequently found that the benefit of the ad hoc increase had been erroneously extended to ministerial employees of the Police Department and initiated proceedings for withdrawal of the said benefit and recovery of the excess amount paid.

(iii) That, pursuant to the departmental proceedings, an order dated 08.12.2020 was passed directing recovery of the excess amount paid to the respondent. The recovery proceedings had been initiated while the respondent was still in service, with more than three years of service remaining before her retirement.

(iv) That the respondent challenged the recovery proceedings by filing W.P. No. 21528/2025 before this Hon'ble Court, contending that she belonged to the ministerial cadre and that recovery of the excess amount was impermissible in view of the judgments of the Hon'ble Supreme Court in State of Punjab v. Rafiq Masih and the subsequent decisions concerning recovery from employees.

(v) That the appellants/State opposed the writ petition, contending that the controversy regarding entitlement of ministerial employees to the ad hoc increase and recovery of the excess amount had already been adjudicated by

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this Hon'ble Court and the Hon'ble Supreme Court. It was further contended that the recovery proceedings had been initiated during the respondent's service tenure and that the subsequent clarification issued by the Hon'ble Supreme Court did not prohibit recovery for periods beyond 17.11.2001.

(vi) That the appellants further submitted that the earlier proceedings concerning withdrawal of the ad hoc increase and recovery of the excess amount had remained pending before the Tribunal, this Hon'ble Court and the Hon'ble Supreme Court, and that the recovery could not be completed during the period in which the proceedings remained stayed.

(vii) That the learned Single Judge, vide impugned order dated 19.09.2025, allowed W.P. No. 21528/2025 and quashed the recovery by relying upon the judgment in Ramrao Bhimte. Being aggrieved by the said order, the State has preferred the present writ appeal.

FACTS OF WA NO. 2914 OF 2026 ARE AS UNDER

(i) That the respondent, D.R.S. Yadav, was serving as Sub-Inspector (Ministerial) in the Police Department and retired from service. He had been granted the benefit of an ad hoc increase in salary in the year 2005 along with the Executive Police Force.

(ii) That the State Government subsequently found that the benefit of the ad hoc increase had been erroneously extended to ministerial employees and initiated proceedings for recovery of the excess amount paid. The respondent was also involved in earlier litigation concerning the grant of the said benefit and the consequential recovery proceedings.

(iii) That, vide recovery order dated 08.12.2020, recovery of the excess

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amount paid to the respondent was directed. The respondent thereafter sought relief against the recovery proceedings, including refund of the amount recovered and release of his revised pension payment order.

(iv) That the respondent approached this Hon'ble Court by filing W.P. No. 20823/2025, challenging the recovery proceedings and contending that he belonged to the ministerial cadre and that recovery was impermissible in view of the principles laid down in State of Punjab v. Rafiq Masih and the judgment of the Full Bench of this Hon'ble Court in State of M.P. v. Jagdish Prasad Dubey.

(v) That the appellants/State opposed the writ petition, contending that the respondent had earlier participated in litigation concerning the same subject matter, including W.P. No. 13500/2006, W.A. No. 1433/2007 and S.L.P. (C) Diary No. 34796/2011, which culminated in the decision of the Hon'ble Supreme Court dated 25.09.2018. It was further contended that the earlier proceedings and the finality attached to the recovery issue had not been properly brought to the notice of the learned Single Judge.

(vi) That the appellants further submitted that the judgments concerning the recovery of excess ad hoc increment from ministerial employees of the Police Department had to be considered in the light of the earlier adjudication by this Hon'ble Court and the Hon'ble Supreme Court, and that the respondent could not reopen the issue already decided in the earlier proceedings.

(vii) That the learned Single Judge, vide impugned order dated 19.09.2025, allowed W.P. No. 20823/2025 and quashed the recovery by

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10/28/2026 6:18:47 PM

relying upon State of Punjab v. Rafiq Masih and the Full Bench judgment in State of M.P. v. Jagdish Prasad Dubey. Being aggrieved by the said order, the State has preferred the present writ appeal.

4. The Government Advocate contends that in the earlier writ petitions order passed therein were suppressed by Mohammad Aslam and Rajesh Kumar Mishra in which the recovery of principal amount had attained finality.

5. The learned Government Advocate relied on the Division Bench judgments of this Court in W.A. No. 1331 of 2026, State of M.P. v. Anita Basnet, and W.A. No. 2439 of 2025, State of M.P. v. Satyaveer Singh Yadav, whereby it was held that the petitioner had already approached this Court earlier and obtained partial relief, namely, quashing of the interest component, while accepting recovery of the principal amount. The said order was passed on the writ petitioner's own submission that she was ready to deposit the principal amount. Therefore, the issue of recovery of the principal amount stood concluded. The State's appeal be allowed.

6. Learned counsel has also placed reliance on the judgment of the Division Bench of this Court:-

(i) W.A. No. 298/2016, The State of M.P. & Others v. Smt. Shail Sahu, judgment dated 08.08.2016, whereby the Division Bench of this Court held that, in the peculiar facts and circumstances of the case, as detailed herein above, as recovery was ordered by the State Government in the year 2006 but could not be given effect to due to the stay in the pending writ petitions and appeals up to 11.04.2011, and immediately after the

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proceedings were decided by this Court, recovery was effected in the case of all the employees on the basis of directions issued by this Court, the learned Writ Court, in applying the principles laid down in the case of Rafiq Masih (supra), had committed an error. The principles laid down in the case of Rafiq Masih (supra) would not apply and, in that view of the matter, the appeal was allowed.

(ii) W.A. No. 1657 of 2025, State of M.P. v. Ramrao Bhimte, order dated 23.07.2025 (D.B.), whereby it was held that, 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 of the fact that the respondent was an employee of the Ministerial Cadre of the M.P. State Police. Although the State Government approached the Apex Court against the judgment in Ramrao's case, the SLP No. 31546/2025 (decided on 1.12.2025) was dismissed.

(iii) In the case of The State of Madhya Pradesh and others Vs. Chandrasekhar Tripathi reported in 2026 Supreme (Online) (MP) 37004, decided on 12.08.2026 (D.B.) by the Gwalior Bench, whereby it was held: "It is fairly conceded by counsel for appellants/State that the learned Single Judge has relied upon the judgment passed by the Division Bench in the case of State of Madhya Pradesh and others v. Ramrao Bhimte and the said judgment takes care of the controversy involved in the present case. The present case is squarely covered by the said order. In view of the statement made by counsel for respondent nothing survives in this writ appeal, and the same is accordingly dismissed."

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7. The Supreme Court, in the case of S.H. Baig & Ors. v. The State of Madhya Pradesh, reported in 2012 Supreme (SC) 925, held that: "We are in agreement with the High Court that the method of recruitment, qualifications for appointment, duties and responsibilities of the Ministerial and Executive staff being different, Ministerial employees are not entitled to claim parity of pay-scales with the Executive Force. We affirm the judgment of the High Court regarding the recoveries sought to be made between 01.01.2000 to 17.11.2001."

Thereafter, one of the police constables, Anita Chowdhri, approached the Supreme Court of India and sought clarification regarding the recovery after the period 17.11.2001, but the Apex Court has not given any direction regarding setting aside the recovery beyond the period of 17.11.2001; however, it held that the amount paid between 01.01.2000 to 17.11.2001 is not liable to be recovered.

8. No direction has been given by the Supreme Court in Anita Chowdhry's case against the recovery before 01.01.2000 and after 17.11.2001, but only liberty was given to seek appropriate legal recourse. On the above direction, without considering the previous judgment of the Division Bench of this Court, in which the direction to recover the excess amount of ad hoc increment had already been given by the Division Bench, the Single Bench of this Court in Writ Petition No. 17624/2015 (Gajendra Singh Rauthar & Others v. State of M.P. & Others) set aside the recovery. In our opinion, the Writ Court has not properly understood the direction in Anita Chowdhry's case and has taken a contrary view against the judgment

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10/28/2026 6:18:47 PM

of the Division Bench.

9. The Division Bench of this Court in W.A. No. 1657 of 2025, (the State of M.P. v. Ramrao Bhimte) set aside the recovery relying only on the law laid down by the Apex Court in the matter of Rafiq Masih(supra). The above judgment is distinguishable on the ground that the recovery was initiated after the retirement of seven years, whereas in the present case, recovery was initiated in 2006 and the order of recovery was stayed by the Hon'ble Supreme Court and High Court. After the disposal of the Special Leave Petition of the petitioner, the recovery proceedings were again initiated in 2020 while the petitioner was in service.

10. The State approached the Supreme Court in S.L.P. (C) No(s). 31546/2025, State of M.P. v. Ramrao Bhimte. The SLP was dismissed in limine by the Supreme Court. W.P. No. 291/2016, Madanlal Bardele, order dated 06.09.2016, was also challenged by the State in S.L.P. (Civil) Diary No(s). 34048/2017, State v. Madanlal. By order dated 15.09.2023, the Apex Court held: "We find no ground to interfere with the impugned order passed by the High Court. The Special Leave Petition is, accordingly, dismissed." The Division Bench of this Court had already passed a judgment in W.A. No. 298/2016, The State of M.P. & Others v. Smt. Shail Sahu, on 08.08.2016, in which the writ petitioner was a party. After passing that judgment, another Division Bench of this Court delivered the judgment dated 06.09.2016 in W.A. No. 291/2016, Madanlal Bardele, without considering the previous judgment, hence, the Madanlal Bardele judgment is not a binding precedent. Although the SLP filed by the State was dismissed, it

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does not mean that the judgment in W.A. No. 298/2016, The State of M.P. & Others v. Smt. Shail Sahu, dated 08.08.2016, was approved by the Hon'ble Apex Court in the case of S.H. Baig.

11. The Gwalior Bench in State of M.P. v. Sanjay Naithani, W.A. No. 1765/2025 (05.08.2025), followed Ramrao Bhimte on a concession of the State, and the Division Bench in the appeal decided on 12.08.2026 (2026 Supreme (Online) (MP) 37004) did likewise, neither adds an independent reasoning, but both show that Ramrao Bhimte has been consistently applied.

12. In the case of Sushma Tiwari v. The State of Madhya Pradesh, reported in 2011 Supreme (MP) 1407, this Court had directed that the respondents shall be entitled to recover the excess amount paid to the petitioners after 17.11.2001. The aforesaid amount shall be recovered in instalments as directed by the respondents. That judgment was challenged in 2019 All SCR 875, S.H. Baig & Ors. v. The State of Madhya Pradesh & Ors., before the Supreme Court, which affirmed the judgment of the High Court.

13. In W.A. No. 298/2016, The State of M.P. & Others v. Smt. Shail Sahu, judgment dated 08.08.2016, the Division Bench of this Court held that the respondent's retirement was on 30th June, 2012 and, after retirement, recovery orders were passed on 04.10.2012. She kept quiet, and it was only after three years, on 19.11.2015, that she filed a writ petition before this Court after the entire recovery was effected and the amount was recovered from her. In the writ petition, she only raised a ground that, in view of the law laid down in the case of Rafiq Masih (supra), after her retirement the

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recovery was unsustainable. In the peculiar facts and circumstances of the case, as detailed herein above , as recovery was ordered by the State Government in the year 2006 but could not be given effect to due to the stay in the pending writ petitions and appeals up to 11.04.2011, and immediately after the proceedings were decided by this Court, recovery was effected in the case of all the employees on the basis of directions issued by this Court, the learned Writ Court, in applying the principles laid down in the case of Rafiq Masih (supra), had committed an error. The principles laid down in the case of Rafiq Masih (supra) would not apply and, in that view of the matter, the appeal was allowed.

14. The Division Bench of this Court has already discussed that the Rafiq Masih case was not applicable to the present case, but thereafter, without considering that judgment, the Division Bench of the High Court applied the Rafiq Masih case and set aside the recovery of the amount. We are of the view that it is unjust enrichment of the huge amount which was illegally withheld by the employee in the light of the stay order of the Courts and pending litigation. The employee is either a retired person or going to retire. At the time of retirement, he gets a handsome amount as gratuity, insurance money, GPF and other retirement benefits, which amount is higher than the recovery amount. The Department has already relaxed the amount of interest, therefore, the employee has already received an amount which was received at the time of retirement. Hence, setting aside the recovery amount would result in unjust enrichment of the employee and the Government would suffer a loss of multi-crore rupees because more than 1000 similarly

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situated employees have received the illegal enrichment. If recovery has been stayed by a Court, the question of recovery after retirement would depend upon the terms of the Court's order and the final outcome of the proceedings.

15. It is on record that the writ petitioners Mohammad Aslam (W.P. No. 7530/25), Rajesh Kumar Mishra (W.P. No. 13943/24), Ashok Kumar Dubey (W.P. No. 21249/25), Smt. Anita Choudhari (W.P. No. 21528/25) and D.R.S. Yadav (W.P. No. 20823/25) filed Writ Appeal No. 1760 of 2007, in which a recovery order was passed by the Division Bench, and the order of the Division Bench was stayed by the Supreme Court. Therefore, in the above situation, the Rafiq Masih case could not be applied.

16. The Division Bench of this Court had already discussed that the Rafiq Masih case was not applicable to the present case, but thereafter, without considering that judgment, various Division Benches of the High Court applied the Rafiq Masih case and set aside the recovery of the principal amount. We are of the view that it is unjust enrichment of the huge amount which could not legally have been withheld by the employee. The Government, by order dated 06.08.2005, had given a direction to recover the excess amount which was given as an ad hoc increment. That order was challenged before the Tribunal, High Court and Supreme Court, and recovery was stayed from 2005 to 2018 by the High Court and Supreme Court. Therefore, recovery was not finalised against the employee. In the above facts and situation, the employee can not take benefit of the Rafiq Masih case. The Department has already recovered the principal amount and relaxed the interest on the principal amount. Had the recovery amount been

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set aside, it would result in undue enrichment of the employee and the Government would suffer a loss of multi-crore rupees because more than 1000 similarly situated employees have received the illegal enrichment under the stay of the Court order. The Division Bench of this Court had already taken a view that the Rafiq Masih case was not applicable to the present case. Thereafter, another Bench of this Court took a contrary view, which is not a binding precedent in the light of Jabalpur Bus Association's case.

17. Rajesh Kumar Mishra is a Class-III employee in service, but his first petition, W.P. No. 8814/2021, challenged the same order dated 18.09.2020 and was decided on 22.06.2021 by setting aside the interest and upholding the principal, and he did not challenge that order further. His second petition, W.P. No. 13943/2024, challenges the same recovery on the grounds of Class-III status and the period of excess payment, which were available in 2021, Rafiq Masih having been decided in 2015. No retirement or other events have intervened. This is a second writ petition on the same cause of action, barred as held in Alok Kumar Yadav and Anita Basnet, and the review order in Ramrao Bhimte is distinguishable because the earlier round there concerned the withdrawal of the benefit and not the recovery order.

18. Ashok Kumar Dubey is a Class-III employee, the recovery order of 06.12.2024 was passed fifty-six days before his retirement on 31.01.2025 and the amount was adjusted from his retiral dues. D.R.S. Yadav is a Class-III employee whose recovery order of 06.12.2024 was passed twenty-five days before his retirement on 31.12.2024, and the amount was recovered

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from his retiral dues. Smt. Anita Choudhari is a Class-III employee who retired on 31.12.2023. The recovery order of 08.12.2020 was passed when more than three years of her service remained. The recovery order was passed in 2005, which was challenged before the Tribunal, High Court and Apex Court, and recovery was stayed by the Apex Court. After dismissal of the SLP in 2018, the recovery order was issued against the employee. These facts were suppressed by the employee, therefore, the Rafiq Masih case is not applicable to the present case and Ramrao Bhimte and Madanlal cases are distinguishable on the present facts and circumstances.

19. In 2011 Supreme (MP) 1407, Sushma Tiwari v. The State of Madhya Pradesh, the Division Bench of this Court observed as follows:

"The recovery against the appellants/petitioners for the period between 01.01.2000 and 17.11.2001 is hereby quashed. However, the respondents shall be entitled to recover the excess amount paid to the appellants/petitioners after 17.11.2001. The aforesaid amount shall be recovered in instalments as directed by the respondents."

20. Further, in 2019 All SCR 875, S.H. Baig & Ors. v. The State of Madhya Pradesh & Ors., the Hon'ble Supreme Court held that the judgment of the High Court regarding the recoveries sought to be made for the period from 01.01.2000 to 17.11.2001 was affirmed.

21. In the present case, the recovery order initiated by the Government could not be finalised due to the pendency of the litigation. After the decision in Sushma Tiwari, the recovery was stayed by orders dated 23.09.2011 and 17.10.2011 passed by the Hon'ble Supreme Court in S.H.

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Baig. The aforesaid facts were not brought to the notice of the High Court while passing the order in Ramrao Bhimte and Madanlal. Therefore, the said orders are distinguishable on the facts and circumstances of the present case.

22. We are of the opinion that the recovery remained stayed due to the pendency of the litigation and the orders passed by the Court. Therefore, the recovery could not have been completed during the period from 2006 to 2018. After the clarification in S.H. Baig was given by the Hon'ble Supreme Court in Anita Choudhary, the petitioner sought to reopen the case. However, there is no order setting aside the recovery without considering the fact as to who was responsible for the non-recovery of the amount allegedly received illegally by the petitioner.

23. In the case of Dr. M.K. Ravi Varma etc. v. National Institute of Technology and Ors., reported in the 2026 Live Law 1019, the Hon’ble Apex Court held that, insofar as the circumstance of hardship canvassed by learned counsel for the appellants is concerned, it was observed that no such case had been pleaded in the writ petition. In any event, whether recovery of money would result in hardship has to be determined on the facts of each particular case. After all, we cannot presently conceive of a situation where recovery of money from the recipient would not cause hardship. However, for instance, if it is pleaded and proved to the satisfaction of the writ court that the entirety of the excess payment received by the employee has since been spent towards medical treatment and that the employee concerned would face immense hardship in returning such excess payment, or if the same were recovered from him through initiation of appropriate proceedings,

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in a deserving case, the Court would be justified in quashing the notice seeking recovery or refund. This would also be subject to the employee satisfying the Court that the excess payment was not received on account of any misrepresentation or fraud on his part.

24. The present appeal is squarely covered by the above judgment of the Apex Court because the appellant did not plead what type of hardship was caused due to recovery of the disputed amount. Only the cases of other persons could not be considered to evaluate the hardship of the appellant. Since no such case exists here, the contention of the appellant is rejected.

25. Accordingly, relying upon 2011 Supreme (MP) 1407, Sushma Tiwari v. The State of Madhya Pradesh, and 2026 Live Law 1019, Dr. M.K. Ravi Varma etc. v. National Institute of Technology and Ors., it is held that the judgment in Rafiq Masih is not applicable to the present cases. Hence, the appeals are allowed, and the order passed by the learned Writ Court is set aside.

26. Copy of this order be placed in connected cases.

(VIVEK RUSIA)
JUDGE

(PRADEEP MITTAL)
JUDGE

Praveen

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