



2026:AHC:57983

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 3842 of 2026

Suresh Chandra Yadav

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Manoj Kumar Mishra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Manoj Kumar Mishra, learned counsel for the writ petitioner and Sri Gaurav Singh, learned Standing Counsel for the State.

2. Sri Gaurav Singh, learned Standing Counsel has made a statement that he is well equipped with the instructions and is in a position to argue the case. He does not propose to file any counter affidavit and he further submits that the writ petition be decided on the basis of the documents available on record.

3. With the consent of the parties, the writ petition is being decided at the fresh stage.

4. The writ petitioner herein had earlier approached this Court while filing Writ-A No.. 15824 of 2025, Suresh Chandra Yadav vs. State of U.P., questioning the order dated 01.09.2025, whereby a direction was issued by the Assistant Police Commissioner, Commissionerate, Agra to the Chief Treasury Officer, Auraiya to recover an amount of Rs.5,24,137/- being certain excess payment made to the writ petitioner. The said writ petition came to be decided on 29.10.2025, order whereof is quoted hereinunder:-

"1. Heard Sri Manoj Kumar Mishra, learned counsel for the writ petitioner and Sri S.K. Pal, learned Addl. Chief Standing Counsel for the State.

2. A joint statement has been made by learned counsel for the parties that they do not propose to file any affidavit and the case be decided at this stage.

3. With the consent of the parties, the case is being decided at the fresh stage.

4. The case of the writ petitioner is that he was recruited as Constable in PAC

Department on 01.10.1984 and was transferred to GRP in the year 2000 and he took voluntary retirement on 24.02.2024, however by virtue of the order dated 01.09.2025, the Assistant Police Commissioner, Commissionerate Agra, directed the Chief Treasury Officer, Auraiya, District Auraiya to recover the amount of Rs.5,24,137/- on the premise that certain excess payments were extended to the writ petitioner. Learned counsel for the writ petitioner submits that the said action is a unilateral action, the writ petitioner ought to have been put to notice and in absence of any fraud, concealment or misrepresentation, the recovery could not have been effect, that too post-retirement.

5. Learned Addl. Chief Standing Counsel on the other hand submits that from the impugned order, it is not forthcoming whether any order has been passed and the said order is basically a tabulation chart. He submits that propriety demanded that the writ petitioner ought to have been put to notice so as to set forth his say that recovery is not liable to be made. He submits that the order be set aside, matter be remitted back to pass a fresh order.

6. I have heard the submissions so made across the Bar and perused the records carefully.

7. Facts are not an issue. It is not an issue that the writ petitioner took voluntary retirement on 24.02.2024, the order dated 01.09.2025 does not disclose that the writ petitioner was put to notice. In case, the employers were of the opinion that certain amount is to be deducted, which is permissible under law, then the propriety demanded that they should have put the writ petitioner to notice. The Hon'ble Apex Court in Bhagwan Shukla vs. Union of India has observed as under:-

"3. We have heard learned counsel for the parties. That the petitioner's basic pay had been fixed since 1970 at Rs. 190 p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs. 181 p.m. from Rs. 190 pan. in 1991 retrospectively w.e.f. 18.12.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not, even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There, has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25.7.1991. which was impugned before the

Tribunal could not certainly be sustained and the Central Administrative Tribunal fell in error in dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the order of the Central Administrative Tribunal dated 17.9.1993 as well as the order (memorandum) impugned before the Tribunal dated 25.7.1991 reducing the basic pay of the appellant From Rs. 190 to Rs. 181 w.e.f. 18.12.1970."

8. *Since the aforesaid aspect is completely lacking, thus the order in question cannot be sustained. Accordingly, the writ petition is being decided in the following terms:-*

(a) The order dated 01.09.2025 passed by the Assistant Police Commissioner, Commissionerate Agra is set aside.

(b) The matter is remitted back to the authority to pass fresh order after putting the writ petitioner to notice.

9. *For facilitation early disposal of the case, the writ petitioner is directed to prefer a comprehensive representation along with self attested copy of the writ petition and the certified copy of the order before Respondent no.3 by 07.11.2025, who shall on the said motion proceed to consider the claim of the writ petitioner strictly in accordance with law within a period of two months months thereafter.*

10. *In view of above, the writ petition is disposed of."*

5. Post passing of the said order, the writ petitioner was required to submit its explanation, which the writ petitioner submitted on 16.02.2026 and now, the order impugned came to be passed by the Deputy Police Commissioner, Commissionerate, Agra negating the claim of the writ petitioner for effecting the recovery on 18.02.2026.

6. Questioning the said order, the present writ petition has been preferred.

7. Learned counsel for the writ petitioner has sought to argue that the order impugned cannot be sustained for the simple reason that in the representation/reply dated 16.02.2026, the writ petitioner had placed reliance upon the judgment in ***State of Punjab vs. Rafique Masih (White Washer)*** reported in **(2015) 4 SCC 334** that no recovery could have been effectuated from the writ petitioner, particularly when the writ petitioner stood voluntarily retired on 31.07.2024 in absence of any fraud, concealment or misrepresentation, but the said aspect has not been considered or adverted to, however by the single stroke of pen, the claim of the writ petitioner has been rejected.

8. Contention of the learned counsel for the writ petitioner submitted that once the writ petitioner submitted his objection or representation, then the same ought to have been considered.

9. Sri R.S. Umrao, learned Standing Counsel on the other hand submits that whatever might be, it is always open for the respondents to recover the amount, if it has been paid bereft of entitlement, however, according to him the legal contention so raised has not been considered.

10. I have heard the submissions so made across the Bar and perused the records carefully.

11. Apparently, post quashing of the order dated 01.09.2025, the matter stood remanded back. The writ petitioner submitted its objection on 16.02.2026 taking a legal ground that it is not a case of fraud, concealment or misrepresentation and further his case is covered in view of the judgment of the Hon'ble Apex Court in Rafiq Masih (supra), but the said contention has not been considered and it has been overlooked.

12. Bearing in mind the fact that the contention so raised by the writ petitioner, which according to the writ petitioner is legal has not been taken note of, thus the order dated 18.02.2026 passed by Deputy Police Commissioner, Commissionerate Agra is set aside. The matter stands remitted back to the authority to pass a fresh order strictly in accordance with law within a period of two months, from the date of production of certified copy of the order.

March 20, 2026

N.S.Rathour

(Vikas Budhwar,J.)