



2026:AHC-LKO:20022

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 3009 of 2026

Vinod Kumar Soni And 14 Others

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. (Medical Health
And Family Welfare) Lko. And 10 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Manoj Kumar Gupta, Birendra Kumar Yadav
Counsel for Respondent(s)	: C.S.C.

Court No. - 7

HON'BLE MANISH MATHUR, J.

1. Heard Mr. Manoj Kumar Gupta, learned counsel for petitioners and learned State counsel for opposite parties.
2. The present petition has been filed challenging order dated 04.02.2026 whereby salary of petitioners have been redetermined with adjustment/recovery also been directed.
3. It has been submitted that a bare perusal of impugned order will make it evident that same has been passed only on the basis of certain reports without issuing any show cause notice to petitioner nor affording any opportunity of hearing.
4. Since reasons for denial of benefits have been indicated in the impugned order itself, the requirement of filing counter affidavit is dispensed with in terms of decision rendered in ***Mohinder Singh Gill & others v. Chief Election Commissioner, New Delhi & others***, reported in ***AIR 1978 SC 851***.
5. Learned State counsel has not been provided any written instructions in this matter.
6. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, particularly the impugned order, it is evident that the same has been passed on the

basis of certain letters/reports indicating incorrect pay fixation and on that basis, pay-scale of petitioners has been redetermined with recovery/adjustment also being directed.

7. In the considered opinion of this Court, once a benefit already granted to petitioners was being withdrawn or cancelled with recovery also being directed, which was incumbent upon opposite party to have afforded opportunity of hearing to petitioners whereas the impugned order has apparently been passed on an ex parte basis.

8. The petitioners admittedly being said allegedly the Class III personnel, are also be covered by judgment rendered by Hon'ble the Supreme Court in the case of ***State of Punjab & others v. Rafiq Masih (White Washer) & others*** reported in ***(2015) 4 SCC 334***.

9. In the case of ***State of Punjab and Others V. Rafix Masih (White Washer) and others***, this Court held as under: -

"18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover. (emphasis supplied)"

10. In view of aforesaid discussion, impugned order dated 04.02.2026 is hereby quashed by issuance of a writ in the nature of certiorari granting liberty to opposite parties to pass order a fresh certainly after issuing show cause notice to petitioners, affording opportunity of hearing to them and considering their reply. The authority shall also keep in mind the law enunciated by Hon'ble the Supreme Court in the case of **Rafiq Masih (White Washer) & others** (supra), so far as it relates to petitioner is concerned

11. Resultantly, petition succeeds and is **allowed at the admission stage itself**. Parties to bear their own costs.

(Manish Mathur,J.)

March 19, 2026

Subodh/-