

**Court No. - 8**

**Case :-** WRIT - A No. - 25669 of 2019

**Petitioner :-** Hansraj Chauhan

**Respondent :-** State Of U.P. Thru Prin.Secy. Irrigation Dept. Lko And 3 Ors.

**Counsel for Petitioner :-** S.P. Singh Somvanshi

**Counsel for Respondent :-** C.S.C

**Hon'ble Dinesh Kumar Singh,J.**

1. Heard Sri S.P. Singh Somvanshi, learned counsel for petitioner and Sri Ram Vilas Maurya, learned Standing Counsel.

2. The present petition under Article 226 of the Constitution of India has been filed seeking quashing of the orders dated 16.8.2016 and 24.9.2018 with further prayer for a Writ of Mandamus commanding the opposite parties to return the recovered amount of Rs.2,11,188/- with 11% simple rate of interest.

3. Sri Ram Vilas Maurya, learned Standing Counsel fairly concedes that neither the petitioner was put to notice that in case it was found that pay of the petitioner was wrongly fixed or revised, the excess amount so paid to the petitioner, would be liable to be realized from the petitioner nor any such undertaking was taken from the petitioner nor given by the petitioner. He does not dispute the contention of the learned counsel for the petitioner that the petitioner being Class-III employee and he retired on 31.08.2018, the order of recovery of Rs.2,11,188/- in respect of alleged excess payment made to the petitioner on account of revision of his pay, is squarely covered by the judgment of the Supreme Court in the case of ***State of Punjab and others vs. Rafiq Masih (White Washer)***, (2014) 8

SCC 883.

4. Considering the aforesaid stand of the learned standing Counsel and also considering the fact that the case of the petitioner is squarely covered by the judgement of the Supreme Court in the case of *Rafiq Masih* (supra), this Court has no option but to quash the impugned orders.

5. Thus, the present petition is ***allowed*** and the impugned orders dated 16.8.2016 and 24.9.2018 are hereby set aside. The amount recovered from the petitioner i.e. Rs.2,11,188/- is directed to be paid to him within a period of two months from today.

**Order Date :-** 13.7.2023

Rao/-