

Court No. - 6

Case :- WRIT - A No. - 12272 of 2024

Petitioner :- Banshi Dhar

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home Lko. And 3 Others

Counsel for Petitioner :- Farooq Ayoob, Mansi Gupta

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur, J.

1. Heard Ms. Mansi Gupta, counsel for the petitioner as well as learned Standing Counsel on behalf of the respondents.

2. It has been submitted by counsel for the petitioner that the petitioner has been working on the post of Head Constable (Pro) in the office of Superintendent of Police, Lucknow and superannuated from service on 30.11.2017. Ten months subsequent to his superannuation, on 20.09.2018 an information was published in the Newspaper, namely, 'Dainik Jagran', informing that an amount of Rs.53,238/- has been deducted from post retiral dues of the petitioner to which he has responded.

3. Counsel for the petitioner submitted that the impugned recovery from the post retiral dues of the petitioner after his superannuation is an illegal and arbitrary and is contrary to the judgement of the Supreme Court in the case of **State of Punjab and others Vs. Rafiq Masi (White Washer) and others, 2015 (4) SCC 334**. It is stated that the case of the petitioner is squarely covered by aforesaid judgement inasmuch as the petitioner belongs to Group - 'C' cadre and as per judgement of the Supreme Court in Paragraph-18 in sub-clause (i) the case of the petitioner is fully covered and no such recovery can be made from the petitioner. It has further been submitted that opportunity of hearing was also sham inasmuch as no details of the Government Order is ever supplied to the petitioner on the basis of which the salary of the petitioner was reduced and accordingly, for the aforesaid reasons, it is stated that the impugned order or recovery is illegal and arbitrary and deserves to be quashed.

4. Learned Standing Counsel, on the other hand, has opposed the writ petition and has submitted that the impugned order has been passed after giving due opportunity of hearing to the petitioner but does not dispute the findings of the Supreme

Court in the case of Rafiq Masih (supra) and also that the case of the petitioner is squarely covered by the aforesaid judgement.

5. In light of the above, it is noticed that ten months subsequent to his superannuation by means of the impugned order, the respondents have sought to refix the salary of the petitioner and recovered the excess amount from his post retiral dues which is Rs.53,238/- considering that the petitioner is a Group - C employee and after his superannuation, the salary has been refix and even details of the re-fixation have not been supplied to the petitioner and not even mentioned in the impugned order and even otherwise, this Court is of the considered view that the case of the petitioner is squarely covered by the judgement of the Supreme Court in the case of **Rafiq Masih (supra)** inasmuch as the excess amount of salary is sought to be recovered within one year of the retirement.

6. In light of the above, the writ petition is allowed. The impugned order 20.09.2018 so far it relates to the recovery is set aside . The recovery, if any, made from the petitioner shall be refunded to the petitioner expeditiously say within a period of four weeks from the date of certified copy of the order is produced before the competent authority along with interest @ 8% per annum from the date of recovery till the date of actual payment.

(Alok Mathur, J.)

Order Date :- 18.12.2024

Ravi/