

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 881 of 2023

Decided on: 14.07.2026

Dharam Chand

... Petitioner

Versus

Himachal Road Transport Corporation and another ... Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. Lokesh Thakur, Advocate vice
Mr. G.R. Palsra, Advocate.

For the respondents : Ms. Reeta Thakur, Advocate.

Ajay Mohan Goel, Judge (Oral)

By way of this writ petition, the petitioner has approached this Court *inter alia* praying for the following reliefs:-

“(i) That 04.08.2022 contained in Annexure P-1 and certificate Annexure P-2 may kindly be quashed and set aside by issuing a writ of certiorari.

(ii) That the respondents may be directed to release the amount of Rs. 1,92,479/- alongwith interest @12% per annum from January, 2023 till its realization issuing a writ of mandamus.”

2. The grievance of the petitioner is that after he retired from the service of the Corporation as a Class-III employee, (Inspector), on 30/4/2022, in terms of Annexure P1, the benefit of Assured Career Progression Scheme of 9 and 14 years conferred

¹ Whether reporters of the local papers may be allowed to see the judgment?

upon him was withdrawn with immediate effect and as a result thereof, recovery of an amount of Rs.1,92,479/- was effected from the DCRG amount payable to him.

3. As per the learned Counsel for the petitioner, after the petitioner had superannuated from the service of the respondent, even if it was to be assumed that there was a wrong conferment of the benefit of ACPS upon the petitioner, no recovery could have been effected from him in the light of the fact that he superannuated as a Class-III employee, Hon'ble Supreme Court in **State of Punjab and others** versus **Rafiq Masih (White Washer) and others** (2015) 4 Supreme Court Cases 334, has been pleased to hold that in cases where the employee is not responsible for over payment, no recovery can be effected from certain categories, which includes retired employees, Class-III and Class-IV employees. He thus submitted that as the impugned order is not sustainable, the recovery be ordered to be held to be bad and order of recovery be quashed.

4. On the other hand, learned counsel for the respondent corporation submitted that in the present case, the benefit of 9 and 14 years ACPS was inadvertently given to the petitioner vide office order dated 20/2/2021. The same was withdrawn vide office order dated 11/8/2022 and accordingly, excess payment was ordered to be recovered from the petitioner. She submitted that as certain amount

stood paid to the petitioner, to which, he was not legally entitled to, therefore, there is no infirmity in the act of the respondents of recovering said amount from the petitioner.

5. Having heard learned counsel for the parties and having perused the pleading, this court is of the considered view that in the facts and circumstances of this case, recovery from the petitioner could not have been effected by the Corporation. It is evident from the reply filed by the State that the so-called over payment to the petitioner, on account of the alleged wrong conferment of the benefit of ACPS, was not because of any act of omission or commission by the petitioner. Therefore, mistake, if any, which led to the over payment to the petitioner was of the Corporation. In this view of the matter, obviously, as the recovery was effected by the corporation after the superannuation of the petitioner, who retired as a Class-III employee (Inspector), the same is hit by the judgment of the Hon'ble Supreme Court in *State of Punjab versus Rafiq Masih* (supra).

6. This Court is not making any observation on the issue as to whether the benefit of ACPS was wrongly granted to the petitioner or not. All that this Court is observing is that as the petitioner had superannuated as on the date when recovery was effected and as the so-called over payment to the petitioner was not on account of any overt or covert act of his, the same was not

permissible in law. The petitioner having superannuated as a Class-III employee, was protected by the judgment of the Honorable Supreme Court in State of Punjab versus Rafiq Masih (supra), in terms whereof, no recovery can be effected from a retired employee and from a Class-III and Class-IV employee.

7. Therefore, in the light of the above observations, this petition is allowed to the extent that the recovery effected by the respondent-Corporation from the petitioner of Rs.1,92,479/- is held to be bad in law. Annexure P-1 and P-2, to this effect are quashed and set aside. Respondents are directed to refund the said amount to the petitioner within a period of 3 months from today. In case, needful is done within 3 months, it will not entail any interest but if the same is not done within the said period, then due amount shall entail simple interest @ 6% per annum from the date of judgment. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

July 14, 2026
(narender)