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C.W.P. No. 14012 of 2005

Surender Maheshwari vs. HVPNL & another

Present: Mr. Dharmender Singh Rawat, Advocate
 for the petitioner

 Mr. Gaurav Gogna, Advocate for
 Mr. Gaurav Mohunta, Advocate
 for respondent-HVPNL

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In this case the controversy raised is that the petitioner, who was a Class III employee with respondent-HVPNL, had been paid a sum of ₹18,965/- which, according to the respondent, was paid wrongly and was not due to the petitioner and the same was recovered by the respondent from the salary of the petitioner. The petitioner retired from service. The case of the petitioner was that the payment, even if, wrongly made could not be recovered unless the employee himself had played fraud or misrepresented. This matter has now finally been decided by the Apex Court in *State of Punjab and others etc. versus Rafiq Masih (White Washer) etc.* reported as 2015 (Vol. I) RSJ 177 in which certain categories were covered, out of one of which category recovery could not be made, even though wrongly made. One of the categories is “(i) *Recovery from employees belonging to Class-III and Class-IV service (or Group ‘C’ and Group ‘D’ service).*”

According to learned counsel for the parties, the case is covered by the aforesaid dictum of the Apex Court under Category (i).

However, learned counsel for the respondent states that he is not

very sure regarding the amount which had been recovered from the petitioner.

This writ petition is disposed of accordingly with a direction that the respondents shall refund the amount whatever had been recovered from the petitioner within a period of two months. In these two months they will check up their record and find out as to what exact amount has been recovered from the petitioner. If the payment of the amount as found by the respondent is not paid within two months from today then the amount shall carry interest @ 9% p.a. from today.

Copy of the order be supplied/sent to the counsel/parties and file be returned to the High Court.

(R.S.MONGIA)
PRESIDENT

14.07.2015
Janki

(R.K.NEHRU)
MEMBER