

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 19619 of 2012 (O&M)

Date of decision: 16.07.2015

Sukhdev Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K. Arora, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

Mr. Tarun Vir S. Lehal, Advocate for respondent No.4.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of the recovery of Rs. 75,935/- effected from the retiral benefits of the petitioner after his retirement.

It is contended that the petitioner retired as Junior Assistant from the service of respondent No.4 on 31.12.2008. The post held by the petitioner is a Group-C post. It is submitted that no recovery could be effected from the petitioner in view of the ratio of law laid down by the Hon'ble Supreme Court in **State of Punjab Vs. Rafiq Masih**, 2015(1) SCT 195.

The second grievance of the petitioner pertains to the

stoppage of the first ACP granted to the petitioner in the year 2001 w.e.f. 01.01.1996 and for not granting the subsequent second ACP, on account of non submission of application.

The learned counsel for respondent No.4 has not been able to controvert that the case of the petitioner is not covered to the extent of recovery by the ratio of law laid down in **Rafiq Masih's** case (supra). So far as the second grouse of the petitioner with regard to the withdrawal of the first ACP and non grant of 2nd ACP, the learned counsel has placed reliance on **Sushil Kumar Singhal Vs. Pramukh Sachiv Irrigation Department and others**, 2014 (5) Scale 431.

I have heard the learned counsel for the parties and have gone through the record carefully.

Keeping in view the fact that the order was passed prior to the judgment passed by the Hon'ble Supreme Court, in the circumstances, the respondents are directed to re-examine the case of the petitioner in the light of **Rafiq Masih's** case (supra) within eight weeks from the receipt of certified copy of the order. In case, on examination, if the competent authority reaches to the conclusion that the case of the petitioner is covered, in that eventuality, the consequential relief be released to the petitioner within eight weeks thereafter. However, upon consideration, in case, the petitioner is not found covered under the above said law, in that case a reasoned and

speaking order be passed as per law.

The petitioner is at liberty to move a representation before the competent authority for the redressal of his remaining grouse, if any, within one month from today. The competent authority is directed to consider and decide the same within four weeks in terms of **Sushil Kumar Singhal** Vs. **Pramukh Sachiv Irrigation Department and others**, 2014 (5) Scale 431, on reaching a satisfaction with regard to its applicability on the given facts.

Disposed of.

16.07.2015

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(JITENDRA CHAUHAN)
JUDGE