

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

CWP No.18847 of 2014 (O&M)
Date of Decision:- 07.09.2015.

Sahi Ram

.....Petitioner

Versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.S.K.Verma, Advocate for the petitioner.

Mr. Sourabh Mohunta, DAG, Haryana.

Ms. Kashitija Mittal, Advocate for
Mr. Pardeep Solath, Advocate
for respondents No. 3 and 4.

P.B. BAJANTHRI, J.(Oral)

The petitioner was appointed as a Clerk on 05.12.1974. He earned promotion to the cadre of Assistant and Accountant. He has attained age of superannuation and retired from service on 31.03.2010 while holding post of Accountant. The respondents on 16.09.2013 sent communication to the petitioner that a sum of Rs.23,539/- would be withheld from the retiral benefits. While he was in service he had made a loss to the third respondent while transacting in an official capacity to the tune of Rs.23,539/-.

Therefore, the impugned order dated 16.09.2013 vide Annexure P6 has been passed. Learned counsel for the petitioner submitted that the petitioner has retired on 31.03.2010. Till date of retirement neither show cause notice nor departmental proceedings were initiated relating to loss caused to the 3rd respondent to the tune of Rs.23,539/-. For the 1st time, abruptly passed impugned order on 16.09.2013. Therefore, the impugned order dated 16.09.2013 is not in accordance with law.

Per contra, respondents' counsel vehemently contended that the petitioner while working as an Accountant has caused loss to 3rd respondent organization to the tune of Rs.23,539/-. The petitioner orally admitted that the loss caused to the respondents based on the oral submission a sum of Rs.23,539/- has been deducted from the pensionary benefits. It is undisputed that petitioner has caused loss to 3rd respondent. Therefore, there is no infirmity in Annexure P6, dated 16.09.2013.

Heard learned counsel for the parties.

The petitioner retired on 31.03.2010. The allegations of the respondents that the petitioner has caused loss to 3rd respondent to the tune of Rs.23,539/-, the same was deducted from his retiral benefits on 16.09.2013. The respondents did not exercise power to initiate disciplinary proceedings for the conduct of the petitioner. Even notice was also not issued to the petitioner before arriving that petitioner is responsible to cause loss of Rs.23,539/-. The loss caused to 3rd respondent is to be determined in an full-fledged enquiry. In the absence of holding an enquiry or issuance of show cause notice and obtaining reply/explanation from the petitioner the respondents' action is liable to be set aside. Accordingly, I set aside the

order dated 16.09.2013. Insofar as recovery amount of Rs.23,539/- is concerned, the respondents may take note of the recent decision of the Supreme Court passed in *State of Punjab Versus Rafiq Masih* reported in 2015(1)SCT 195 read with Government Memorandum/order dated 28.08.2015 relates to implementation of aforesaid judgment. Such decision shall be taken by the respondents within a period of 8 weeks' and to release the withheld amount to the petitioner.

Accordingly, writ petition is disposed of.

(P.B. BAJANTHRI)
JUDGE

September 07, 2015.

pooja saini