

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 205

Case No. : C. W. P.No. 4900 of 2012

Date of Decision : May 28, 2015

Sushil Kumar and others Petitioners

Vs.

Punjab Water Resources Management
and Development Corporation Limited
and another Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Abhishek Singla, Advocate
 for the petitioners.

 Mr. J. S. Puri, Advocate
 for the respondents.

* * *

DEEPAK SIBAL, J. :

While the petitioners were serving the respondent Punjab Water Resources Management and Development Corporation Limited (hereinafter referred to as – the Corporation) as Assistant Engineers Grade II, vide order dated 14.08.2003, they were granted the benefit of second

proficiency step up. The above benefit of second proficiency step up was withdrawn by the respondent Corporation through order dated 01.06.2011 (Annexure P-2) on the ground that the same had been mistakenly granted and on the basis thereof, the petitioners were served recovery notices Annexures P-3 to P-7. Challenging the above action on the part of the respondent Corporation, the petitioners have preferred the present writ petition.

I have heard learned counsel for the parties and with their able assistance, have also gone through the record of the case.

At the time of hearing, learned counsel for the petitioners, while giving up the challenge to order dated 01.06.2011 (Annexure P-2), restricted his claim only qua recovery sought to be made from the petitioners and cited judgment of the Apex Court in **State of Punjab and others etc. vs. Rafiq Masih (White Washer) etc.** reported as **JT 2015 (1) SC 95** to submit that after a period of five years, no recovery can be made.

I have gone through the judgment of the Apex Court in the case of **Rafiq Masih (supra)** and find that the case of the petitioners is squarely covered by the following observations of the Apex Court in that case :-

“12. *It is not possible to
postulate all situations of hardship, which
would govern employees on the issue of*

recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

- (i) xx xx xx*
- (ii) xx xx xx*
- (iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
- (iv) xx xx xx*
- (v) xx xx xx”*

In view of the above, the impugned recovery notices dated 01.02.2012 (Annexures P-3 to P-7) are ordered to be quashed.

The writ petition stands allowed in the above terms with no orders as to costs.

(DEEPAK SIBAL)
JUDGE

May 28, 2015