

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

CWP No.17739 of 1998(O&M)

Date of decision:29.8.2016

Sher Singh

... Petitioner

Versus

State of Haryana & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

RAJIV NARAIN RAINA, J.(Oral)

1. It is always open to the Government to correct a mistake made by it on discovery and there are no limitations placed in exercise of such reasonable power. Such authority and power to remove error is inherent and meant to serve public interest and the exchequer to restore and maintain purity of record on administrative files. Initially, the petitioner was granted the relief but it was based on a mistake committed in wrongly taking into account the period served in the District Rural Development Agency, Narnaul, which is an agency run by an independent management whose employees are not Government servants. Therefore, past service spent working in the scheme run by the agency could not have been counted towards fixation of basic pay and for protection of pay scale, the petitioner coming from agency to Government service in the Irrigation Department, Haryana on selection and appointment as a Tracer

in May, 1982. As a result of the correction of the mistake, the benefit was withdrawn after issuing him show cause notice and offering hearing to the petitioner. On consideration of his representation for clubbing past service with service as Tracer, the impugned order dated October 14, 1996 (Annex. P-9) was passed after verification of pay by the Accounts Officer, Hisar, withdrawing the benefit of past service in the agency and the petitioner's pay was re-fixed by the adverse office order w.e.f. July 10, 1982 in the manner provided therein. The Government was within its rights to correct the wrong committed by its officers in the past and therefore, no interference is justified in the matter. I find no palpable error in the office order demanding an interdict from Court and the same is upheld.

2. The recovery sought to be effected from the petitioner as a result of the impugned order of re-fixation of pay was stayed by this Court. The interim order continued till the petitioner retired from service on reaching the age of superannuation some time in the year 2015. Being a retired person from Class III service, the recovery sought to be effected from the petitioner is not sustainable in law by virtue of the impugned order and more so for the reason that recovery of money is no longer possible in view of the statement of law laid down by the Supreme Court in **State of Punjab v. Rafiq Masih**, (2015) 4 SCC 334. The interim order is accordingly made absolute and it is ordered that recovery of money will not be made from the petitioner from his pension and pensionary benefits. Hence, the petition is partly allowed so far as recovery is concerned which is quashed. For the other prayers the petition is

dismissed. Dues, if any, be paid to the petitioner after determining them.

Pending application/s, if any, shall stand disposed of with the decision in

the main case today.

(RAJIV NARAIN RAINA)
JUDGE

29.8.2016
monika

Whether speaking/reasoned Yes

Whether Reportable: No