

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

**CWP No.14642 of 2010
Decided on : 16.03.2016**

Amrik Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

(2)

CWP No.18360 of 2010

Roshan Lal and others

... Petitioners

Versus

State of Punjab and others

... Respondents

(3)

CWP No.2816 of 2011

Roop Lal and others

... Petitioners

Versus

State of Punjab and others

... Respondents

(4)

CWP No.2817 of 2015

Ragunish Chander

... Petitioner

Versus

State of Punjab and others

... Respondents

(5)

CWP No.2820 of 2015

Kamaldeep

... Petitioner

Versus

State of Punjab and others

... Respondents

(6)

CWP No.2821 of 2015

Piara Lal

... Petitioner

Versus

State of Punjab and others

... Respondents

(7)

CWP No.2822 of 2015

Ranbir Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

(8)

CWP No.2823 of 2015

Suba Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

(9)

CWP No.2824 of 2015

Sham Lal

... Petitioner

Versus

State of Punjab and others

... Respondents

(10)

CWP No.2825 of 2015

Rajinder Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

(11)

CWP No.2841 of 2015

Devinder Singh and another

... Petitioners

Versus

State of Punjab and others

... Respondents

(12)

CWP No.2852 of 2015

Gurmej Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

(13)

CWP No.2894 of 2015

Bishan Dass

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. M.K. Dogra, Advocate
for the petitioners.

Mr. L.S. Virk, Addl. AG, Punjab and
Mr. Avinit Avasthi, AAG, Punjab.

G.S. Sandhawalia, J. (Oral)

The present order shall dispose of 13 writ petitions i.e.

CWP Nos. 14642, 18360 of 2010, 2816 of 2011, 2817, 2820, 2821, 2822, 2823, 2824, 2825, 2841, 2852 and 2894 of 2015.

The facts are being taken from ***CWP No. 14642 of 2010 titled as 'Amrik Singh and others Vs. State of Punjab and others'.***

The petitioners challenge the order dated 11.09.2002 (Annexure P-6), whereby the respondent No.3-Chief Engineer accepted the recommendations of the Committee and withdrew the benefits given vide para 26.6 of Chapter 26 of the 3rd Pay Commission. The said order was implemented, thereafter, vide order dated 19.05.2010 (Annexure P-8), in view of the decision of the Division Bench of this Court in CWP No.1067 of 2003 decided on 27.03.2009 (Annexure P-7), which is also sought to be challenged. Accordingly recovery was sought to be effected w.e.f. 11.09.2002 on account of the grant of scale.

It is not disputed that the decision dated 19.05.2010 was also subject matter of challenge in ***CWP No.22296 of 2011***

'Thein Dam Workers Union Vs. State of Punjab and others' decided on 27.02.2016. This Court, accordingly, noticed that the dispute had been decided against the workmen by the Division Bench on 27.03.2009 and the order dated 27.03.2009 had been upheld by the Apex Court on 04.09.2009. However, in view of similarly situated workers from the Thein Dam having been protected regarding the recovery which was to be effected and keeping in view the subsequent judgment of the Full Bench in **'Budh Ram and others Vs. State of Haryana 2009 (3) SCT 333** and the recent judgment of the Apex Court in **'State of Punjab Vs. Rafiq Masih (White Washer) and others' 2015 (1) RSJ 177**, it was held that the workers would be identically placed to the other members of the Ranjit Sagar Dam Mazdoor Union (Regd.) and, therefore, once recovery had been protected in that set of cases, it would be iniquitous to deny the relief to the petitioners.

Counsels could not point out that the judgment dated 27.02.2016 was distinguishable in any manner. The relevant part of the order dated 27.02.2016 reads as under:-

“Keeping in view the cumulative aspects in mind and the fact that the members of the petitioner-union would be identically placed as to the other members of the Ranjit Sagar Dam Mazdoor Union, it would be iniquitous to deny the petitioners similar relief wherein similarly situated persons have got relief from this Court and the said order has not been challenged by the respondents. Accordingly, this Court is of the opinion that the case of the

petitioner-union falls within the categories which are exempted and protected from the recovery proceedings. The Division Bench had also directed that the respondents were to take appropriate decision regarding the recovery of the amount which had been paid in view of the stays granted in the writ petitions. Thus, a large number of workmen had got higher pay scales till 27.03.2009 when they had challenged the order dated 01.01.2003, regarding which also, the respondents have not passed any separate order in spite of the directions issued by the Division Bench and have directed whole scale recovery w.e.f. 11.09.2002.

Resultantly, this Court is of the opinion that the members of the petitioner union are entitled for the benefit of the principles laid down in the judgment of Rafiq Masih's case (supra).

Accordingly, order dated 19.05.2010 (Annexure P-3) directing recovery against them is quashed and the writ petition is allowed.

Even otherwise the State itself has also issued instructions dated 28.08.2015 in consonance with direction of the Apex Court in **Rafiq Masih (supra)** that recovery is not to be effected in certain cases. The petitioners case falls within those parameters.

Resultantly, the present writ petitions are also allowed in the same terms as above.

MARCH 16, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE