

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

**CWP No.12471 of 2012
Decided on : 19.01.2016**

Ashok Kumar & others

... Petitioners

Versus

State of Punjab & others

... Respondents

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

Present : Mr.V.K.Shukla, Advocate, for the petitioners.

Mr.L.S.Virk, Addl.A.G., Punjab.

G.S. Sandhawalia , J. (Oral)

The petitioners challenge the notices dated 07.05.2012 (Annexures P4 to P8) which have been issued to them whereby the House Rent Allowance on NPA, from 01.08.2009 to 31.07.2011, was sought to be withdrawn. The reasoning given by the State, in the said notices, was that HRA was required to be given from 01.12.2011, as per Punjab Government letter dated 21.12.2011 (Annexure R1).

The petitioners' case is that they had already represented on 28.05.2012 (Annexure P9) but no decision was taken on the same and on account of the apprehension that recovery would be effected from the month of May, 2012, as per the proposed notice, they had approached this Court.

The ground for issuing notice of motion by this Court, on 05.07.2012, was that the orders had been passed, without giving an opportunity of hearing and there is no misrepresentation or fraud on their part and therefore, the recoveries were untenable.

In the considered opinion of this Court, the issue will require consideration at the hands of respondent No.1, firstly, on the ground that admittedly, no actual order has been passed, after taking into consideration the reply of the petitioners, as noticed above. Secondly, in the light of the law laid down by the Apex Court in **Chandi Prasad Uniyal & others Vs. State of Uttarakhand & others 2012 (8) SCC 417**, certain rights of recoveries have been granted, which have further been elaborated in **State of Punjab and others Vs. Rafiq Masih (White Washer) & others AIR 2015 SC 696**.

Accordingly, the present writ petition is disposed of, with a direction to respondent No.1 to consider the above said issues and before passing any final order of recovery, hear the petitioners or their authorized representative, in joint capacity and pass a speaking order, within a period of 3 months from the receipt of a certified copy of this order.

Needless to say that the petitioners can always demonstrate before the said respondent, their entitlement for retaining the amounts which have already been paid to them, on merits also. During this period, recovery from the petitioners shall, however, remain stayed.

JANUARY 19, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE