

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

CWP No.11213 of 2013

Date of Decision:15.01.2016

Raj Kumar

... Petitioner

Versus

State of Punjab & ors.

... Respondents

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

Present: Mr. Naveen Batra, Advocate,
for the petitioner.

Mr. Nikhil Chopra, DAG, Punjab.

Mr. R.L. Sharma, Advocate,
for respondent No.3.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

The recovery of excessive and mistaken payment on account of ACP cannot be sustained in view of law laid down in **State of Punjab v. Rafiq Masih**, (2015) 4 SCC 334. The petitioner has retired from service on June 30, 2012 on reaching the age of superannuation. The recovery notice was issued on August 2, 2012 after retirement. The amount was deposited by the petitioner in protest on August 31, 2012 on the pain of withholding of his pension and pensionary benefits. The payment was under compulsion as the petitioner might have been visited by greater harm had he not. The petitioner has protested against the illegal recovery without any success, which has led him to approach this Court for directions. Since the matter is covered by the decision of the Supreme Court in *Rafiq Masih's case (supra)*, this petition is allowed. The money recovered will be reimbursed to the petitioner within 30 days from the date of receipt of a certified copy of this order. The amount would earn interest at Bank rates on FDRs.

15.1.2016

monika

**(RAJIV NARAIN RAINA)
JUDGE**