

**107+205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-8134-CWP-2016 in/and
CWP No.18408 of 2011 (O&M)
Date of decision : July 25, 2016**

Jagdish Mitra

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Kunal Dawar, Advocate for the applicant-petitioner.

Mr. Gagandeep Singh Wasu, Addl. A.G., Haryana.

Mr. R.M. Suri, Advocate for respondent No.4.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

CM-8134-CWP-2016

Application is allowed as prayed of.

Annexure P-7 is taken on record.

Main Case

Heard.

Learned counsel for the petitioner contends that the petitioner retired from service on 30.11.2001. On 01.01.2006, the recommendation of 6th Pay Commission were implemented. The Government issued Notification dated 02.09.2009 in which new fitment table Nos.4 and 5 were prescribed and the pension of the petitioner was, accordingly, fixed. Later on, Government vide Notification dated 10.06.2011 (Annexure P-1) made some changes regarding the pension.

Though in the present petition, some other relief is also claimed but it is stated that now the petitioner has been given the pension as being given to the others, in terms of Annexure P-4. Though, it was given prospectively.

Learned counsel for the petitioner states that he will be satisfied if his prayer for restraining respondents from recovering excess pension and the excess pension, already given to him should be refunded, is allowed.

Learned counsel for the petitioner has relied upon the authority of Hon'ble the Supreme Court delivered in case of "*State of Punjab and others etc. v Rafiq Masih (White Washer) etc.*", 2015(2)SCC (Civil) 608.

The petitioner has retired as Principal from Government College, Naraingarh. The ratio of *Rafiq Masih's case (supra)* is not disputed by the State counsel.

As such the excess pension, even if, it is paid to the petitioner erroneously, could not be recovered after his retirement. Therefore, the respondents are restrained from making any further recovery of excess pension paid to him and the recovery already made shall be refunded.

Regarding claim of the petitioner that Annexure P-4 could not be implemented prospectively, the prayer of learned counsel for the petitioner is that he should be allowed to make representation to respondent No.2, which shall consider and decide his claim.

In view of the aforesaid request, the petitioner shall make representation to respondent No.2 regarding his claim against prospective implementation of Annexure P-4. Respondent No.2 shall consider the same and take a final decision on the same within two months from the date of receipt of the representation.

The present writ petition is allowed to the abovenoted extent.

July 25, 2016
sarita

(KULDIP SINGH)
JUDGE