

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

Civil Writ Petition No.11858 of 2015

Date of Decision: 02.08.2016

Sukhwinder Kaur

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Sukhdeep Singh Sidhu, Advocate for the petitioner.

Mr. Nikhil Chopra, Additional Advocate General, Punjab
for the respondents.

JASWANT SINGH, J. (Oral)

Petitioner-Smt. Sukhwinder Kaur has retired on attaining the age of superannuation w.e.f. 30.04.2014 from the rank of Senior Assistant with the Department of Agriculture, Punjab/Chief Conservator of Soil, Punjab.

The challenge is to a common order dated 26.05.2015 (**Annexure P-3**), whereby recoveries of different amounts have been ordered against the employees i.e. Smt. Kanta Kumar, Sh. Nand Kishore, Sh. Major Singh, Sh. Malkit Singh, Sh. Nahar Singh and the petitioner-Smt. Sukhwinder Kaur. A recovery of Rs.90,813/- has been ordered to be effected from the petitioner on the basis of re-fixation of the pay scale, effective from the year 1986.

It appears that the benefit of proficiency step up scale, for lack of promotional avenue, was granted to the petitioner and other employees under the ACP Scheme. In the light of the Instructions dated 05.10.2006, the same was ordered to be withdrawn from the granted date and pay

re-fixed, which provided that the previous period if had benefited the employee for grant of senior scale or selection grade, the said period would then not count towards grant of benefit towards Assured Career Pay Scales or proficiency step up.

Learned Counsel for the petitioner, at the initial hearing, has restricted his relief only qua recoveries and does not challenge the refixation of the pay and consequent rate of pension. Reliance has been placed on the recent decision of the Hon'ble Supreme Court in "**State of Punjab Vs. Rafiq Masih, 2015 (1) S.C.T. 195**", which in no uncertain terms lays down that from an employee, who has retired from service, no recoveries can be effected, more so when he himself is not responsible for initial grant of that alleged higher pay scale.

At the time of hearing, learned Counsel for the petitioner submits that the present petition is covered by the decision dated 02.03.2016, rendered in CWP No.11775 of 2015 relating to the similarly situated co-employee Nahar Singh.

Learned State Counsel very fairly concedes that the present petition is covered by the aforesaid decision.

In view of the aforesaid agreed stand, the present petition is partly allowed in the same terms as CWP No.11775 of 2015, decided on 2nd March, 2016.

August 02, 2016

Gagan

(JASWANT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No