

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

CWP-24047-2012

Date of decision: 22.07.2016

Vijay Kumar Bhardwaj**.....Petitioner****versus****The Director of School Education Haryana and others****.....Respondents****CORAM: Hon'ble Mr.Justice Kuldip Singh**

Present: Mr.P.L.Verma, Advocate for the petitioner
Mr.Gagandeep Singh Wasu,
Additional Advocate General, Haryana

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Petitioner seeks issuance of writ in the nature of certiorari for quashing the order Annexure P2, whereby the recovery of Rs.71,975/- has been ordered to be effected from his Gratuity. Petitioner, who was working as a Science Teacher and was later on promoted as Principal of Government Senior Secondary School, Khandewla, Gurgaon retired from service w.e.f. 30.4.2006. Subsequently, an order Annexure P2 was passed, whereby his pay was re-fixed after finding out that due to some clerical error in the re-fixation excess amount of Rs.71,975/- was paid to the petitioner. Petitioner has challenged this order stating that it was passed without hearing him and that the recovery cannot be effected after his retirement.

On behalf of the State, a stand has been taken that the petitioner himself had made an entry in his service book at page No.17, whereby he allowed the deduction of said amount from his gratuity. The petitioner in the

petition does not say that the said entry was got made by coercion nor he disputes the calculations regarding fresh fixation.

I have heard learned counsel for the parties and have carefully gone through the file.

Learned counsel for the petitioner relies upon the authority of the Hon'ble Supreme Court in the case of State of Punjab and others vs. Rafiq Masih (White Washer) and others, 2015 (1) RSJ 177 and claims that no recovery can be effected after his retirement.

However, facts of the present case are different. In this case, there was some error in fixation of salary, which was corrected and the pay was accordingly re-fixed. The petitioner does not say that the fixation is incorrect nor any error in the fixation has been pointed out. On account of the correct fixation, a sum of Rs.71,795/- becomes recoverable from the petitioner. In this case, the petitioner himself made an entry in the service book allowing the department to recover the said amount from his gratuity. Once, he has granted the permission to the department to recover the said amount from his gratuity under his signatures, he cannot complain that the recovery is illegal. Thus, there are no merits in the present petition.

The same is accordingly dismissed.

22.07.2016

gk

(Kuldip Singh)
Judge