

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

CWP No. 8460 of 2014

Date of Decision: 16.12.2016

KAMLESH SHARMA

... Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. I.D. Singla, Advocate,
for the petitioner.

Mr. Nikhil Chopra, Addl. A.G., Punjab.

KULDIP SINGH, J. (Oral)

Additional affidavit on behalf of respondents No. 1 to 4 is already on record.

It comes out from the additional affidavit that the petitioner had expired on 26.10.2009. While releasing the family pension and other retiral benefits, a deduction @ ₹ 31,420/- has been made on account of change of date of increment on promotion as Chief Head Draftsman (CHD). Another sum of ₹11,225/- has also been deducted on account of excess payment of leave encashment. In this way, total deduction of ₹42,645/- has been made. Since, husband of the petitioner is working as Chief Head Draftsman, a Class III post, therefore such deduction is not permissible in view of the authority of the Apex Court passed in **State of Punjab and others Vs. Rafiq Masih (White Washer) Etc. in CA No. 11527 of 2014 (arising out of SLP (C) No. 11684 of 2012).**

So far as the payment of retiral benefit is concerned, undisputedly the husband of the petitioner died on 26.10.2009 and payment in respect of

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retiral benefits was made in installments starting from February 2010 till 2014. Therefore, the petitioner is entitled to interest @ 9% per annum on the delayed payments.

It being so, the State is directed to pay the deducted amount of ₹42,645/- to the petitioner within two months from the date of certified copy of this order failing which, the said amount will be paid alongwith interest @ 9% per annum till its payment. The respondents are also directed to release the interest @ 9% per annum on the delayed payment of the retiral benefits starting three months from the date of death of the husband of the petitioner.

The above said payments be released to the petitioner within two months from the date of receipt of certified copy of this order.

In view of the above, present petition stands disposed of.

December 16, 2016

Suresh Kumar

**[KULDIP SINGH]
JUDGE**

<i>Whether speaking / reasoned</i>	:	✓ Yes / No
<i>Whether Reportable</i>	:	✓ Yes / No