

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

**CWP No.981 of 2016 (O&M)
Date of decision: 06.12.2016**

Jaipal Jangra

.... Petitioner

Vs.

State of Haryana & ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Kuldeep Khandelwal, Advocate
for the petitioner.

Mr. R.K.Doan, AAG, Haryana.

Rajiv Narain Raina, J.(Oral)

Today, this Court has partially allowed CWP No.17977 of 2014 filed earlier by the petitioner.

Challenge in this writ petition is to the order of recovery of monetary benefits paid under the 2nd ACP scheme retrospectively and continuously since about the last thirteen years and the grievance is the petitioner has not been heard to tell his side of the story before recovery order was passed arbitrarily deducting amounts in installments from the monthly salary of the petitioner as mistaken overpayments.

It is the contention of the learned State counsel that before the order was made, the petitioner played fraud with the government in receiving an undue benefit.

One of the main planks of challenge is the breach of principles of natural justice, inasmuch as, the petitioner was not heard when the impugned order was passed behind the petitioner's back. The other grounds of attack are that he did not get the benefit of 2nd ACP by any

misrepresentation or by deceit and now the petitioner is a retired government employee. Prohibition against recovery of money paid by mistake from a retired person is now governed by ruling in **State of Punjab & ors. vs. Rafiq Masih, (2015) 4 SCC 334** which covers this case on the point in issue.

Accordingly, the present petition is allowed and the recovery order dated 12.01.2015 is quashed. The amounts illegally deducted from salary without notice are ordered to be refunded to the petitioner. The outer limit of compliance of the directions supra is fixed within 6 weeks from the receipt of certified copy of this order. Order dasti.

(RAJIV NARAIN RAINA)
JUDGE

06.12.2016

sonia

1. Whether speaking/reasoned?

Yes

2. Whether reportable?

No