

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-1445-2016 (O&M)

Date of Decision: September 14, 2016

Uttar Haryana Bijli Vitran Nigam Limited and others

.....Appellants

Versus

Ved Parkas

.....Respondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr.R.D.Bawa, Advocate
for the appellant.

.....

SURYA KANT, J.

CM-3015-LPA-2016

For the reasons mentioned in the application, delay of 67 days in
filing the appeal is condoned.

CM stands disposed of.

LPA-1445-2016

Notice of motion.

Mr.Ramesh Malik, Advocate, who is present in Courts, accepts
notice on behalf of the respondent. A complete set of paper-book has been
handed over to him.

Heard learned counsel for the parties.

This intra-Court appeal challenges the order dated 04.05.2016
whereby learned Single Judge allowed the writ petition filed by respondent
and has set aside the orders of recovery passed against him on the premise
that he is a retired Class-III employee and such recoveries cannot be effected

from his retiral benefits/after retirement in view of the principles laid down by the Hon'ble Supreme Court in State of Punjab and others vs Rafiq Masih (2015) 4 SCC 334.

The facts are not in dispute. The respondent served the appellant as a Junior Engineer and retired from service on attaining the age of superannuation on 31.05.2007.

The legal principles are also certain that non-punitive recoveries need not to be allowed to be effected from the retiral benefits especially when the affected employee had served in lower strata, i.e. Class-III or Class-IV post.

Learned Single Judge has applied these principles in the case of the respondent though he held a responsible post of Junior Engineer but the fact is that he had initially joined the service as an Assistant Foreman only. Be that as it may, we have gone through the contents of 15 recovery orders passed against the respondent on different dates which have been reproduced by learned Single Judge in a tabulated form in the order under appeal. It may be seen that recovery orders dated 21.02.2007 at Sr.Nos.8, 9 & 10 were passed well before the retirement of the respondent on 31.05.2007. The remaining orders have been passed after his retirement. Thus, the ratio of Rafiq Masih's case (supra) also cannot be stretched to protect the respondent from the recoveries which were ordered against him well before his retirement.

In the light of the above discussion, the appeal is allowed in part; the order under appeal is modified and it is directed that the appellant shall be entitled to effect recovery pursuant to the orders dated 21.02.2007 mentioned

at Sr.Nos.8, 9 & 10 in the chart reproduced by the learned Single Judge.
However, no recovery in respect of other orders shall be effected from the respondent.

Disposed of.

(SURYA KANT)
JUDGE

September 14, 2016
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(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned
Whether Reportable

: Yes/No
: Yes/No