

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

RSA No.4254 of 2012 (O&M)

Date of decision:22.08.2016

Nachhattar Singh

....Appellant

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. A.K. Walia, Advocate,
for the appellant.

Mr. Neeraj Yadav, AAG, Punjab.

P.B. BAJANTHRI, J. (Oral)

The appellant has challenged the appellate Court order dated 10.05.2012.

The appellant was working as a Science Master. His pay was increased on 15.07.1977 by giving two additional increments and further on 01.01.1988, one more additional increment was given. He attained the age of superannuation retired from service on 31.10.2008. Thereafter, during the audit, the audit people objected stating that the appellant has been wrongly given higher emoluments by means of granting increments on two occasions i.e. on 15.7.1977 and 01.01.1988, which was not due to the appellant in accordance with law. The same was rectified. Consequently, at the time of releasing retiral benefits a sum of ₹3,50,000/- has been deducted/adjusted from the DCRG and further the appellant was directed to remit the balance amount of ₹ 1,76,892/-.

The learned counsel for the appellant submits that the appellant was compelled to pay the balance amount for want of issuance of pension payment order. The respondent-State has taken undue advantage stating that the appellant has admitted and for the reasons that he has remitted the balance amount. Re-fixing of pay and order of recovery has not been made available to the appellant, so also to this Court for deciding the present case. They are relying on the noting made in the settlement of retiral benefits, showing the details of the amount to be recovered from the appellant.

Heard learned counsel for the parties.

In view of facts and circumstances re-fixing of pay and order of recovery is civil consequence, principle of natural justice is attracted. Admittedly, no notice had been given to the appellant before re-fixing of his pay and ordering recovery, therefore, recovery proceedings are set aside. The respondents are directed to issue a show-cause notice to the appellant furnishing details that how there is pay anomaly and from what stage pay anomaly has occurred within a period of two months from today. After receipt of show-cause notice, the appellant is directed to furnish his reply within a period of two months from the date of receipt of show-cause notice. The respondents are directed to pass the final order within a period of one month from the date of receipt of explanation of the appellant to the show-cause notice. If the appellant is holding the post of Class III (employee), the recovery shall not be effected and only re-fixation of pay be made, in view of Hon'ble Apex Court decision in State of

Punjab and others Vs. Rafiq Masih 2015 (1) SCT 195

Appeal Stands disposed of accordingly.

22.08.2016

PA

(P.B. Bajanthri)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No