

**1600 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.17985 of 2005 (O&M)

Date of decision : May 18, 2017

Mohinder Singh Atwal and others **Petitioners**

Versus

State of Punjab and others **Respondents**

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Deepal Sabherwal, Advocate for the petitioners.

Mr. R.S. Pathania, DAG, Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Petitioners retired from service between 1999 to 2002. They have challenged the impugned recovery notices dated 19.10.2005 (Annexure P-13) and 25.10.2005 (Annexure P-16), vide which their pension was refixed and recovery was sought to be effected.

It also comes out that this Court vide order dated 18.11.2005, had stayed the recovery.

Learned counsel for the petitioners states that qua petitioner Nos.1 to 3, recovery was not effected on account of the stay, whereas qua petitioner No.4, recovery was effected but the same has not been refunded.

Learned counsel for the petitioners further states that there was no misrepresentation on the part of the petitioners on the pay and pension fixation. Therefore, in view of the law laid down by the apex Court in case of ***“State of Punjab and others vs Rafiq Masih”, 2015(1) S.C.T., 195,*** recovery cannot be effected. The prayer is for quashing the recovery notices

dated 19.10.2005 (Annexure P-13) and 25.10.2005 (Annexure P-16).

In view of the law laid down by the apex Court in ***Rafiq Masih's case (supra)***, it is held that since there was no misrepresentation by the petitioners at the time of fixation of their pension, therefore, recovery notices dated 19.10.2005 (Annexure P-13) and 25.10.2005 (Annexure P-16) are hereby quashed.

The recovery already effected from petitioner No.4 is ordered to be refunded along with interest @ 9% per annum.

As such, the present petition is allowed.

(KULDIP SINGH)
JUDGE

May 18, 2017

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Whether speaking / reasoned Yes

Whether Reportable: No