

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

CWP No.521 of 2006 (O&M)

Date of decision : May 18, 2017

Smt. Saroj Gutpa and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Deepak Sabherwal and Mr. A.S. Bedi, Advocates,
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 1998 to 2002. They have challenged the impugned recovery notices dated 24.11.2005 (Annexure P-14) and 13.12.2005 (Annexure P-15), vide which their pension was refixed and recovery was sought to be effected.

It also comes out that this Court vide order dated 13.01.2006, had stayed the recovery.

Learned counsel for the petitioners states that on account of the stay, recovery was not effected from petitioner No.3, whereas it was effected from petitioner Nos.1, 2 and 4. The recovery qua petitioner No.2 has been refunded, whereas the recovery effected from petitioner Nos.1 and 4 has not been refunded.

Learned counsel for the petitioners further states that there was no misrepresentation on the part of the petitioners for the pay and the 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 24.11.2005 (Annexure P-14) and 13.12.2005 (Annexure P-15).

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 24.11.2005 (Annexure P-14) and 13.12.2005 (Annexure P-15) are hereby quashed.

The recovery already effected from petitioner Nos.1 and 4 is ordered to be refunded along with interest @ 9% per annum. If some amount on account of said recovery notices is withheld qua any of the petitioners, that shall also be refunded to them along with interest @ 9% per annum.

As such, the present petition is allowed.

(KULDIP SINGH)
JUDGE

May 18, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No