

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

CWP No. 17306 of 2013 (O&M)
Date of decision: 21.2.2017

Madan Lal

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. HS Saggu, Advocate,
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab,
for respondent No.1.

Mr. Sunil Sharma, Advocate,
for respondents No. 2 to 4.

JAISHREE THAKUR, J.

1. The instant writ petition was filed seeking to challenge the impugned order dated 27.5.2010 by which the pay of the petitioner had been illegally reduced as well as the order dated 11.2.2013, by which an amount of Rs. 79207/- had been recovered on account of excess pay paid on re-fixation of pay.

2. At the outset, the petitioner limited his prayer to the recovery that was sought to be made post retirement. It is contended by the learned counsel for the petitioner that the recovery made is in direct contradiction to the judgment rendered in **State of Punjab and others etc. Versus Rafiq**

Masih (White Waster) etc. 2015 AIR (SC) 696, in which it had been held

that recovery should not be made after a person had retired and that too on account of re-fixation of pay.

3. Per contra, learned counsel appearing on behalf of the respondents relied upon a judgment rendered in **High Court of Punjab & Haryana and others Versus Jagdev Singh reported in 2016 AIR (SC) 3523** wherein the Hon'ble Apex Court held that the judgment rendered in the **State of Punjab Vs. Rafiq Maish (supra)** cannot be applied to a situation where the officer/official had furnished an undertaking, while opting for the revised pay scale that excess amount, if paid, would be refunded.

4. In the instant case, the pay of the petitioner was re-fixed on account of seniority being given to him, vide letter No. 139 dated 16.1.2007. This seniority was challenged and, as such, the petitioner had given an undertaking that if the Corporation ultimately found that the placement given to him along with financial benefits are not in consonance with the judgment of the High Court in CWP No. 1267 of 1999 and CWP No. 9718 of 2000, the Corporation would be authorized to recover the same. The petitioner herein was well aware of the pendency of the writ petition and was agreeable at that point of time that in case the judgment rendered by the High Court regarding seniority is decided against him, he would be bound by the pay scale as fixed in terms of the judgment so passed. Therefore, the action of the respondents in initiating recovery proceedings are in consonance with the undertaking that had been furnished.

5. Therefore, relying upon the judgment rendered in **Jagdev Singh's case (supra)**, there is no illegality in the act of the respondents in

recovering excess amount already paid.

6. The writ petition is dismissed accordingly.

21.2.2017
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No