

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.13135 of 2016

DECIDED ON: OCTOBER 25, 2017

SMT. MOHINDER KAUR WALIA

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Manu K. Bhandari, Advocate,
for the petitioner.

Mr. Manoj Bajaj, Additional Advocate General, Punjab,
for respondents-State.

JASPAL SINGH, J.

The precise grievance ventilated by the petitioner through instant petition is that the order dated April 18, 2015 (P-2) issued by respondent No.5, whereby an amount of Rs.2,21,687/- has been ordered to be recovered from the petitioner, is wrong, arbitrary and against the law laid down by the Hon'ble Apex Court in case captioned as “*State of Punjab and ors. etc. vs. Rafiq Masih, 2015 AIR (SC) 696; 2015 (1) S.C.T. 195.*”

2. The amount sought to be recovered through the impugned letter/order dated April 18, 2015 (P-2) is on account of wrong payment of the revision of pay scale for which the petitioner cannot be fastened with the liability especially in the circumstances that there is no fraud or misrepresentation played by the petitioner at the time of advancement of the alleged excess payment. It is well settled proposition of law that no such

amount can be recovered from a retiree alleged to have been paid excess on the basis of some wrong interpretation or ground. The law laid down by the Hon'ble Apex Court in *Rafiq Masih's case (supra)* comes to the rescue of the petitioner. The case of the petitioner squarely falls within the parameters laid down by the Hon'ble Apex Court in the above referred case. According to which, no recovery can be effected from the retired employee, which has been paid in excess there being no fraud or misrepresentation on his/her part. Accordingly, recovery of the amount sought to be effected on the basis of the aforesaid letter/order dated April 18, 2015 (P-2) is illegal, arbitrary and against the settled proposition of law.

3. In the light of what has been discussed above, instant petition is allowed. Consequently, impugned order dated April 18, 2015 (P-2) is set aside and the respondents are restrained from effecting the recovery in pursuance thereon. If anything has been recovered in pursuance of the aforesaid impugned order, the same is ordered to be repaid to the petitioner within a period of two months from the date of receipt of a certified copy of this order. In case of non-compliance of aforesaid direction, the petitioner shall be entitled to interest @ 9% p.a. from the date of effecting the recovery till the date of actual payment.

OCTOBER 25, 2017

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**(JASPAL SINGH)
JUDGE**

Whether speaking/reasoned

Yes

Whether reportable

Yes/No