

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

**CWP No.2119 of 2012 (O&M)
Date of decision : April 26, 2017**

Nand Kishore

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Jasneet Mehta, Advocate for
Mr. L.M. Gulati, Advocate for the petitioner.
Mr. Nikhil Chopra, Addl. A.G., Punjab.
Mr. Suvir Kumar, Advocate for respondent No.3.

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)

Petitioner, who was working as Clerk with Municipal Council, Sunam, retired from service on 31.07.2011 on attaining the age of superannuation. It is stated that out of total amount of retiral benefits amounting to ₹16.50 lacs, a sum of ₹7.80 lacs was paid to the petitioner. Thereafter, the petitioner was issued letter dated 21.11.2011 (Annexure P-2), stating that his pay was wrongly fixed on 01.01.1996 and accordingly, his pay has been refixed at ₹5,800/- and recovery is sought to be effected from the retiral benefits of the petitioner.

In the reply, the respondents have maintained that the pay of the petitioner was wrongly fixed and the recovery is sought to be effected from his retiral benefits.

I have heard learned counsel for the parties and have also carefully gone through the case file.

The petitioner was working as Clerk. His pay was fixed by respondent No.3. Now, after his retirement his pay has been refixed from ₹6,200/- to ₹5,800/- w.e.f. 01.01.1996 and recovery is sought to be effected. The petitioner was not at fault for the wrong fixation of pay. The petitioner has not challenged the refixation of the pay. However, his prayer is that recovery cannot be effected from his pensionary benefits.

The case of the petitioner is squarely covered by the judgment of Hon'ble the Supreme Court delivered in case of ***“State of Punjab and others vs Rafiq Masih”, 2015(4) SCC 334***. Therefore, after the retirement of the petitioner on account of refixation of pay, no recovery can be effected from his retiral benefits.

The present petition is, accordingly, allowed and the impugned letter dated 21.11.2011 (Annexure P-2), vide which recovery sought to be effected from the retiral benefits of the petitioner is quashed.

(KULDIP SINGH)
JUDGE

April 26, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No