

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

CWP No. 14954 of 2015

Date of Decision: 23.01.2017

GURTEJ SINGH

... Petitioner

VS.

STATE OF PUNJAB AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. S.S. Rana, Advocate,
and Mr. Sarvesh Kumar, Advocate,
for the petitioner.

Mr. Nikhil Chopra, D.A.G., Punjab

KULDIP SINGH, J. (Oral)

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India for issuance of writ of certiorari for quashing the letter/reply dated 10.07.2015 (Annexure P-5) and for issuance of writ of mandamus declaring the action of the respondents in effecting the recovery of ₹31,312/- on account of wrong fixation of pay after granting benefit of proficiency step up after 24 years of service of the petitioner, as illegal and arbitrary.

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

Brief facts of this case are that petitioner was selected and appointed as Junior Engineer and retired on attaining the age of superannuation, i.e 58 years, on 31.12.2012, while working as Assistant Engineer in Sidhwan Canal Division, Ludhiana. On account of one year extension in service granted by the Government, he retired on 31.12.2013. In the meantime, he was promoted to the post of S.D.O. vide orders dated 31.03.2013.

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It is stated that proficiency step up on completion of 24 years of service was granted to him by the Chief Engineer/Drainage, Irrigation, Punjab vide order dated 24.03.2005 which was withdrawn on 02.02.2006. Thereafter, the petitioner submitted the option on 24.12.2012 for fixation of pay in new scale instead of 01.08.1986 to 01.08.1992. While fixing the pay in the new pay scales, proficiency step up, on completion of 24 years of service, was granted to him inadvertently. When the pension case of the petitioner was submitted, objection was raised by the Accountant General, Punjab with regard to grant of proficiency step up, on completion of 24 years of service. Thereafter, the case was referred to the Sidhwan Canal Division, Ludhiana and accordingly, the pay of the petitioner was re-fixed after deducting the benefit of proficiency step up, on completion of 24 years of service. A recovery of ₹31,312/- was also effected from the petitioner from his gratuity, being excess payment and other retiral benefits were paid to the petitioner on 05.06.2015.

I am of the view that it is a case where the proficiency step up is ordered to have been given inadvertently but later on withdrawn after the retirement of the petitioner. It shows that there was no fault on the part of the petitioner in the same. Therefore, applying the authority of **State of Punjab Vs. Rafiq Masih, (2014) 8 SCC 883**, it is held that the recovery of ₹31,312/- could not be effected from the petitioner. It also comes out that the other retiral benefits like GPF, leave encashment, GIS were released on 05.06.2015 i.e. after a delay of 1 ½ years of the retirement of the petitioner.

In these circumstances, present writ petition is allowed and the respondents are ordered to refund ₹31,312/- which were recovered from the gratuity of the petitioner within two months from date of receipt of certified

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copy of this order failing which respondents shall pay interest @ 9% per annum on the said amount. The respondents are also ordered to pay interest 9% per annum on the delayed payment of the other retiral benefits, starting three months from the date of retirement of the petitioner till the date of actual payment.

January 23, 2017
Suresh Kumar

[KULDIP SINGH]
JUDGE

<i>Whether speaking / reasoned</i>	:	✓ <i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	✓ <i>No</i>