

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

CWP No. 17697 of 2015 (O&M)
Date of decision : February 02, 2017

Rishi Parkash,

..... Petitioner

v.

The State of Haryana and another,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. R.L Sharma, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG Haryana

Ajay Tewari, J (Oral)

By way of this writ petition, the petitioner has challenged the action of the respondents for making recovery from his pay on the ground that no recovery can be made from a Group-C employee who is due to retire within two years of the order of recovery in view of the decision of the Supreme Court in State of Punjab and others v. Rafiq Masih, decided on 18.12.2014.

On the other hand, the stand taken in the written statement is

that the petitioner had got his pay refixed by fraud and that is why correction had to be made.

In my opinion, if there is allegation of fraud, the decision in Rafiq Masih's case (supra) would not be applicable. However, no recovery could be made on the basis of fraud unless principles of natural justice are followed. In the circumstances, this writ petition is allowed and the impugned order dated 3.6.2015 (Annexure P-3) is set aside. However, liberty is granted to the respondents to make any recovery in accordance with law.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

February 02, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No