

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

CWP No. 7211 of 2013 (O&M)

Date of Decision: 14.02.2017

BALDEV SINGH

... Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. J.P.S., Sidhu, Advocate,
for the petitioner.

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

Mr. Umesh Aggarwal, Advocate,
for Mr. Amit Aggarwal, Advocate,
for respondent No. 2 to 4.

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 mandamus/certiorari for quashing of the order dated 19.10.2012 (*Annexure P-1*) whereby recovery of ₹3,10,302/- had been imposed upon the petitioner after withdrawing 8 and 16 years benefits of proficiency step up.

Brief facts of this case are that the petitioner-Baldev Singh (since deceased) who is now being represented by his legal heirs, retired as a Peon on 31.07.2012. He has impugned the order dated 19.10.2012 (*Annexure P-1*) whereby recovery of ₹3,10,302/- had been imposed upon the petitioner after withdrawing 8 and 16 years benefits of proficiency step up after his retirement without issuing any show cause notice.

On perusal of the impugned order dated 19.10.2012 (*Annexure P-1*), it comes out that petitioner was not heard before passing of the said order. The

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benefit of proficiency step up granted after completion of 8 and 16 years of service cannot be withdrawn without hearing the petitioner.

In view of the foregoing discussion, the present petition stands allowed and the impugned order 19.10.2012 (*Annexure P-1*) is hereby quashed. However, the respondent-department is at liberty to issue show cause notice to the legal heirs of the petitioner and hear them before withdrawing any benefit of 8 and 16 years of ACP. Needless to say that in view of the authority of *State of Punjab Vs. Rafiq Masih, (2014) 8 SCC 883*, no recovery can be effected from the petitioner or from his legal heirs.

February 14, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

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