

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

CWP No. 5978 of 2016 (O&M)
Date of decision : March 09, 2017

Satya Narain & another,

..... Petitioners

v.

State of Haryana and another,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Kamal Singh, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG Haryana

Ajay Tewari, J (Oral)

The petitioners were promoted from Class IV to Class III as Clerks. One of the conditions of promotion was that they will have to clear the departmental type test and it was further stipulated that if they do not clear the type test within the stipulated period, they would not be entitled for increment. They did not pass the type test but increment was allowed to them. They enjoyed those increments for five years, when by the impugned orders their pay was refixed and recovery made.

Counsel for the petitioners has argued that recovery could not have been made from the petitioners in view of the decision of the Supreme Court in State of Punjab & others vs Rafiq Masih (White Washer) 2015(1) RSJ 177, unless the employer came to a reasoned conclusion that the petitioners were responsible for over payment. In the present case, no

proceedings were initiated by the respondents to determine any maleficence on the part of the petitioners.

Learned Sr. DAG Haryana has accepted this factual position on the basis of the written statement. In the circumstances, the recovery orders have to be struck down. Consequently, this writ petition is allowed and the impugned orders are set aside. The respondents are, however, directed to institute an inquiry to determine how and in what circumstances increments were allowed to the petitioners and whether the petitioners were guilty of any maleficence.

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

March 09, 2017
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No