

CWP No.7146 of 2015 (O&M)

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

Sr. No.213

CWP No.7146 of 2015 (O&M)
DECIDED ON: October 03, 2017

VIRINDER KUMAR ARORA

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. S.K. Arora, Advocate,
for the petitioner.

Mr. Manoj Bajaj, Additional Advocate General, Punjab,
for respondents No.1 to 3.

Mr. Vikas Chatrath, Advocate,
for respondents No.4 & 5.

JASPAL SINGH, J.

The precise grievance ventilated by the petitioner through the instant petition is that the order dated March 09, 2015 (P-7) issued by respondent No.4, whereby an amount of Rs.2,91,776/- has been ordered to be recovered from the petitioner is wrong, arbitrary and against the law laid down by the Full Bench of this Court in case ***Budh Ram & ors. vs. State of Haryana & ors.***, passed in ***CWP No.2799 of 2008***, decided on May 22,

2009 as well as ***State of Punjab and ors. etc. vs. Rafiq Masih, 2015 AIR (SC) 696; 2015 (1) S.C.T. 195*** passed by the Hon'ble Apex Court.

2. The amount sought to be recovered through the impugned letter/order dated March 09, 2015 (P-7) is on account of wrong payment of the enhanced pension for which the petitioner cannot be fastened with the liability especially in the circumstances that there is no fraud or misrepresentation played by the petitioner at the time of advancement of the alleged excess payment on account of family pension. It is well settled proposition of law that no such amount can be recovered from a retiree alleged to have been paid excess on the basis of some wrong interpretation or ground. The law laid down by the Hon'ble Apex Court in ***Rafiq Masih's case (supra)*** as well as that of ***Budh Ram's case (supra)*** comes to the rescue of the petitioner. The case of the petitioner squarely falls within the parameters laid down by the Hon'ble Apex Court as well as this Court in the above referred cases. According to which, no recovery can be effected from the retired employee belonging to Class III and Class IV service, which has been paid in excess there being no fraud or misrepresentation on his/her part. Accordingly, recovery of the amount sought to be effected on the basis of the aforesaid letter/order dated March 09, 2015 (P-7) is illegal, arbitrary and against the settled proposition of law.

3. In the light of what has been discussed above, instant petition is allowed. Consequently, impugned order dated March 09, 2015 (P-7) is set aside and the respondents are restrained from effecting the recovery in pursuance thereon. If anything has been recovered in pursuance of the impugned order dated March 09, 2015 (P-7), the same is ordered to be

repaid to the petitioner within a period of two months from the date of receipt of a certified copy of this order.

October 03, 2017

Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No