

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.5669 OF 2007

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the office order dated 26.7.2006 as illegal and arbitrary, and to set aside the same and to direct the respondents to refund the recovered amount of Rs.46,891-55 ps., along with interest at 24% p.a., from the date of retirement till payment.

2. Heard Sri P. Govinda Rajulu, learned Counsel for the petitioner and Sri A. Rama Rao, learned Standing Counsel for the respondent-Corporation.

3. It is the case of the petitioner that he was appointed as driver in the respondent-Corporation, and after rendering considerable length of service, he retired from service on attaining the age of superannuation on 30.6.1997. On 12.5.1997, the respondents without conducting any enquiry issued proceedings for recovery of amount on the allegation that he failed to hand over T&P items to D.C.(T& P). Challenging the same, he filed W.P.No.12611 of 1997 before this Court and this Court allowed the said writ petition setting aside the order dated 12.5.1997, while observing that it shall be open to the respondents to hold enquiry after giving notice and

opportunity to the petitioner. Thereafter, the respondents passed orders on 26.7.2006. Aggrieved by the same, the present writ petition is filed.

4. The learned Counsel for the petitioner contended that in view of the latest judgment of the Hon'ble Supreme Court in **State of Punjab and others Vs. Rafiq Masih (White Washer)**¹ wherein the Hon'ble Supreme Court considered under which circumstances the employer cannot recover the amounts from the employee, the respondents should not have recovered the amount from the terminal benefits of the petitioner and therefore, the respondents may be directed to refund the amount, which was recovered from the petitioner.

5. The learned Standing Counsel for the respondent-Corporation contended that the respondents have rightly passed the impugned orders, and there is no illegality or irregularity in the action of the respondents in passing the impugned orders, and therefore, the writ petition is liable to be dismissed.

6. This Court having considered the rival submissions made by the parties and the material available on record, is of the view that in terms of the latest judgment of the Hon'ble Supreme Court (cited Supra), the proceedings impugned, which

¹ (2014) 8 SCC 883

were issued after retirement of the petitioner withholding the amount of Rs.46,891-55 ps., from his terminal benefits, are not permissible. Therefore, the respondents can be directed to refund the same to the petitioner.

7. Accordingly, the Writ Petition is allowed directing the respondents to refund the amount recovered from the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.



JUSTICE ABHINAND KUMAR SHAVILI

Dated:19th September, 2018.
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HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.5669 OF 2007



19/09/2018

Nn.