

**HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION No.4005 OF 2007**

**ORDER:**

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the proceedings dated 13.11.2006 issued by the 2<sup>nd</sup> respondent as illegal, arbitrary and contrary to the service regulations and the judgment of the Hon'ble Supreme Court; to set aside the same and to direct the respondents to release the amount of Rs.54,473/- along with interest at 24% p.a., from the date of retirement i.e., 31.12.2003.

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 31.12.2003. Thereafter, the respondents issued proceedings dated 3.8.2004, whereunder an amount of Rs.54,473/- was recovered from his settlement bill on the ground that he submitted false information regarding family members. Questioning the same, the petitioner filed W.P.No.17414/2006 before this Court and this Court disposed of the said writ petition with a direction to the

respondents to consider the representation dated 23.6.2004 of the petitioner and pass appropriate orders thereon, in accordance with law. In pursuance of the direction of this Court in W.P.No.17414 of 2006, the 2<sup>nd</sup> respondent issued the impugned proceedings. Challenging 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)**<sup>1</sup> 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.

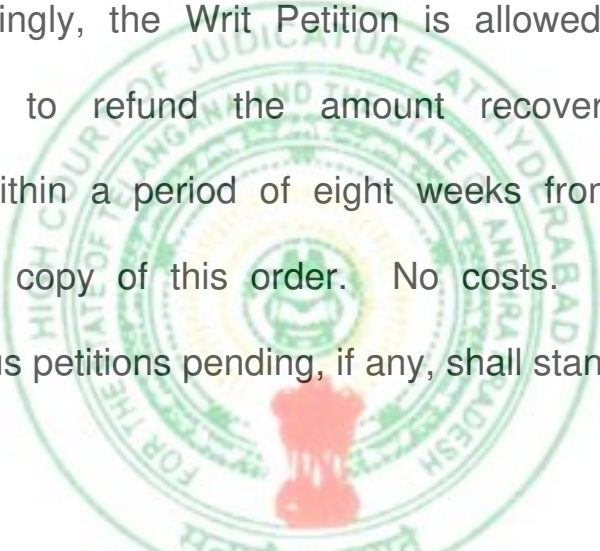
5. The learned Standing Counsel for the respondent-Corporation contended that the respondents have rightly passed the impugned orders, and there is no illegality or irregularity in the action of the respondents in passing the impugned orders, and therefore, the writ petition is liable to be dismissed.

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<sup>1</sup> (2014) 8 SCC 883

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 were issued after retirement of the petitioner withholding the amount of Rs.54,473/- 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.



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**JUSTICE ABHINAND KUMAR SHAVILI**

Dated:19<sup>th</sup> September, 2018.  
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**HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION No.4005 OF 2007**



**19/09/2018**

**Nn.**