

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 30.11.2018****CWP No.18589 of 2006**

Anil Kumar Singhal

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioner.

Ms. Shruti Jain Goyal, DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

1. The petitioner made a representation in the year 1998 that his pay and allowances should be stepped up at par with one Lachhman Dass Chawla, who was junior to him in the cadre of Assistant Research Officers. The relief was granted vide letter dated 16.11.1999. However, later on it was discovered that the pay of the junior, namely, Lachhman Dass Chawla had been wrongly fixed. That mistake was corrected by the Government, which brought the pay and allowances of Lachhman Dass Chawla to his actual entitlement. This resulted in an order dated 30.10.2006 reducing the pay of the petitioner and consequential proposal to recover the excess payment made during the relevant period.

2. Aggrieved by the order, the petitioner brought this petition in 2006 challenging the impugned order dated 30.10.2006. Vide interim order dated 23.11.2006, while issuing notice of motion, this Court stayed the recovery, if any. The petition was admitted on 21.08.2007 to be heard with

CWP No.9526 of 2005 with interim directions to continue. It was also directed that the matter be heard within one year. The office report is that CWP No.9526 of 2005 has been dismissed as withdrawn by the order dated 16.07.2007.

3. Today no one appears for the petitioner, nor is a pass over is sought by next Bar friend or anyone for that matter. I have no reason to simply adjourn the case listed for hearing. Having heard the learned Law Officer for the State of Haryana, I am convinced that there is no merit in this petition as far as rights asserted are concerned for stepping up pay to that of junior when the junior has been relegated to his entitlement. Nothing more than a mistake committed by oversight has been corrected by the department in the case of the person compared with for relief and, therefore, the claim made on the ground of junior-senior no longer subsists. Both the petitioner and Lachhman Dass Chawla have returned to their respective ranks in the seniority with their entitlements of pay and allowances admissible as per rules.

4. Nevertheless, as far as recovery of money is concerned, the matter now appears to be squarely covered in favour of the petitioner against the recovery of excess amounts paid by way of salary for the moot period in view of dicta laid down and carved by the Supreme Court in the judgment and orders rendered in case 'State of Punjab & others Vs. Rafiq Masih (White Washer) & others', AIR 2015 SC 696 explaining in which cases and circumstances recoveries are not to be effected from certain class of employees in certain situations as is culled out in the judgment. Accordingly, no recovery is to be made from the petitioner.

5. In view of the above, the petition is partly allowed. The stay is made absolute. The impugned order dated 30.10.2006 shall stand modified accordingly. Re-fixation of pay for pension and other service benefits may be considered in accordance with law subject to the protection afforded by this order.

30.11.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*