

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CWP No.20646 of 2006
Date of Decision: 30.11.2018**

Sobhagyawati and another

...Petitioners

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Jagbir Malik, Advocate,
for the petitioners.

Mr. Harish Nain, AAG, Haryana.

RAJIV NARAIN RAINA, J. (Oral)

The petitioners are retired persons. They have approached this Court against recovery order for over payment of salary on account of excess payment of re-fixation of their pay after granting the benefit of 8/18 years of service by counting their ad hoc service. The over payment has not been due to any fault, deceit or misrepresentation on the part of the petitioners. The alleged over payment was in accordance with the then prevailing instructions dated 15.03.2002 which were subsequently withdrawn. The petitioners are Class III employees. Their case against recovery is covered by the judgment of the Supreme Court in State of Punjab v. Rafiq Masih, (2015) 4 SCC 334 and accordingly, the interim stay granted by this Court on 23.12.2006 is made absolute.

The writ petition is allowed. The impugned order is quashed.

It may be clarified that this order is only against recovery and not re-fixation of pay and allowances. In case, the department proposes re-fixation of pay and pension then they may also take into account the fact that the excess money was given under valid law which was withdrawn by another valid law with about five years falling in between. The Government would consider the case sympathetically and on humanitarian grounds and the fact that they were teachers in the Education Department so that accustomed pension is not disturbed at this distance of time.

(RAJIV NARAIN RAINA)
JUDGE

30.11.2018

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No