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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-13788-2016

Date of Decision : November 02 , 2018

Harish Kumar

.... Petitioner.

Versus

State of Punjab and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Naveen Batra, Advocate
for the petitioner.

Mrs. Anju Arora, Addl. A.G. Punjab,

Mr. H.S.Ghuman, Advocate,
for respondents No. 2 to 4.

SHEKHER DHAWAN, J.

Relief claimed in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to quash order dated 10.09.2012 (Annexure P/2) and 25.09.2012 (Annexure P/3), whereby recovery of Rs.94,427/- has been effected against the petitioner, with a further prayer to direct the respondents to release the retiral benefits alongwith interest and regular pension and to pay-back the aforesaid amount which the petitioner deposited under protest as the entire retiral benefits were withheld.

2. Contention raised by learned counsel for the petitioner is that the recovery from the retiral benefits of the petitioner could not be effected as the petitioner retired on 30.6.2012 and vide order dated 3.9.2012/10.09.2012 passed by respondent no.2, an increment on account

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of proficiency step up was withdrawn and recovery of Rs.94,427/- was effected on that basis.

3. Learned counsel for the petitioner further contended that as per law laid down by Hon`ble Apex Court in **State of Punjab and others Vs. Rafiq Masih (White Washer) etc., (2015) 4 SCC 334**, such recovery could not be effected.

4. Learned State counsel representing the respondents contended that since the amount has already been deposited by the petitioner, the same cannot be ordered to be refunded.

5. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view the petitioner herein had deposited the amount of Rs.94,427/- under compulsion as a matter of protest only as his entire retiral dues were withheld. Since the matter is covered as per law laid down Hon`ble Apex Court in **Rafiq Masih's case (supra)**, the present writ petition is allowed and the amount recovered from the petitioner herein shall be reimbursed to him within 30 days from the date of receipt of certified copy of this order, failing which the petitioner shall also be entitled to interest at the rate of 9% per annum till the date of payment.

(SHEKHER DHAWAN)
JUDGE

November 02, 2018.
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes