

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

266

CWP-16020-2016 (O&M)
Date of decision:17.04.2018

Raj Kumar

... Petitioner

Versus

Union of India and others

....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. P.C.Yadav,, Advocate for the petitioner.

Mr. Anil Chawla, Advocate fo respondents No.1 to 4.

P.B. BAJANTHRI, J. (ORAL)

In the present writ petition, petitioner has challenged Annexue P7 by which the respondent intends to rectify granting of 3rd M.A.C.P. to the petitioner and ordered for recovery of Rs.1,22,622/- which would be recovered in 32 instalments @ Rs.3832/- since September, 2015.

2. Perusal of Annexure P7 dated 19.04.2016 it is evident that such action is without issuing notice to the petitioner. That apart if any excess payment made the same shall not be recovered in view of the Supreme Court decision in the case titled as *State of Punjab versus Rafiq Masih (White Washer) and others* reported in (2015)4 SCC 334. Accordingly, decision dated 19.04.2016 (Annexure P7) is incorrect and it is set aside.

3. CWP stands allowed.

4. However, allowing of the present petition would not come in the way of refixation of pay of the petitioner if any. If the respondents intends to refix the petitioner's pay on the score that 3rd M.A.C.P. was granted to the

petitioner contrary to Rule in that event respondents are directed to issue show cause notice assigning the reasons in respect of refixation of pay. After receipt of the petitioner's explanation on the show cause notice respondents are permitted to pass appropriate order in accordance with law after due consideration of the petitioner's plea against show cause notice within a period of 6 months. The respondents are hereby directed to refund the recovered amount along with interest @ 6% per annum within a period of 3 months.

17.04.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No