

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

CWP No. 20382 of 2015

Date of Decision: August 02, 2018

Kamaljit Kaur

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM : **Hon'ble Mr. Justice Jaspal Singh**

Present : Mr. J.S. Maanipur, Advocate
for the petitioner.

Mr. C.S. Bakshi, Addl. A.G. Haryana.

JASPAL SINGH, J.(Oral)

By virtue of the instant petition preferred under Article 226 of the Constitution of India, petitioner sought an issuance of a writ, in the nature of a writ of certiorari seeking quashing of the order dated 10.03.2015 (Annexure P-3) as well as the order dated 29.08.2015 (Annexure P-7) passed by respondent no.2, whereby recovery of Rs. 65,663/- was ordered to be effected by the respondent-department which is contrary to law laid down in judgment passed by Apex Court in “State of Punjab Vs. Rafiq Masih”.

2. Concededly, earlier the petitioner preferred CWP No. 9106 of 2015 captioned as Kamaljit Kaur Vs. State of Haryana and others challenging the order dated 10.03.2015 (Annexure P-3) issued by the Chief Manager, State Bank of India, Court Compound, Ambala City (Haryana) and the said petition was disposed of vide order dated 08.05.2015 (Annexure P-6) which reads as under:-

*“In the circumstances, without adverting to the merits of the case, the present petition is disposed of with a direction to the respondents, to examine the case of the petitioner in terms of **Rafiq Masih's** case (supra), by passing a speaking order, within a period of four months from the date of receipt of a certified copy of this order. In case the petitioner is found to be entitled to the relief sought, the consequential benefits shall be released within one month thereafter.*

Till the finalization of the claim of the petitioner by the competent authority, the operation of impugned order/letter dated 10.03.2015 (Annexure P-3) shall remain stayed.”

3. Adverting the abovesaid paragraph transpires that the earlier petition was disposed of with a direction to the respondent to examine the case of the petitioner in terms of the laid down by the **State of Punjab Vs. Rafiz Masih, 2015(1) SCT 195.**

4. In pursuance of the aforesaid order dated 08.05.2015, the General Manager, State Bank of India, Court Compound, Ambala City as respondent No.2 has passed the impugned Order dated 29.08.2015 (Annexure P-7). However the learned counsel appearing on behalf of the parties in the instant petition as well as this Court is surprised to see as to in what capacity, the Chief Manager of the Bank has passed the impugned order, if at all any conscious decision is to be taken that should have been taken by the General Manager from whose office the respondent or the petitioner has been retired. Otherwise also the General Manager, Haryana

Roadways is the appointing and punishing authority as well as DDO during the service of the petitioner and the retiral benefits were also to be released by him. Since the impugned order (Annexure P-7) has been passed order dated 29.08.2015 by an incompetent officer having no jurisdiction to entertain and take a conscious decision in compliance of the order passed by this Court dated 08.05.2015, the same is set aside.

4. Consequently, the instant petition is disposed of with a direction to the General Manager, Haryana Roadways, Sector-17, Chandigarh to consider the claim of the petitioner, in light of the direction given by this Court earlier vide order dated 08.05.2015 in CWP No. 9106 of 2015 and take a conscious decision.

5. Needful is expected to be done by the respondents within two months of the certified copy of this order. Since the General Manager, Haryana Roadways, Sector-17, Chandigarh is not a party of the instant petition, the learned State Counsel Mr. C.S. Bakshi, Addl. A.G. Haryana is advised to take copy of the same order and send the same to the General Manager, Haryana Roadways, Sector-17, Chandigarh. In case of passing of any adverse order by the concerned authorities or the non-compliance of this order the petitioner shall be at liberty in accordance with law to approach this Court.

6. However, till the matter is finally disposed of by General Manager, Haryana Roadways, Sector-17, Chandigarh, the recovery in the

light of impugned order dated 10.03.2015 (Annexure P-3) shall remain stayed.

7. Copy of this order be given to the learned State counsel under the signature of Special Secretary to this Bench.

(JASPAL SINGH)
JUDGE

August 02, 2018
P.Sharma

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No