

231 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24524-2014 (O&M)
Date of decision-13.09.2018

Sangeeta

....Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Shalender Nagpal, Advocate for
Mr. Shireesh Gupta, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

JITENDRA CHAUHAN, J.

The petitioner is aggrieved against the order dated 13.11.2013 (Annexure P-4), whereby, an amount of ₹7000/- per month from the month of August, 2013 (paid in September 2013) onwards has been ordered to be recovered from the petitioner.

Learned counsel appearing on behalf of the petitioner states that case of the petitioner is covered by the ratio of law laid down in *State of Punjab Vs. Rafiq Masih, 2015(1) S.C.T. 195*, and states that the impugned order of recovery deserves to be set aside.

On the other hand, learned counsel for the State disputes the assertion made by learned counsel for the petitioner. She submits that the excess payment was made due to wrong LPC prepared by Civil Hospital, Kharar. The petitioner is guilty of remaining silent.

Heard.

In Rafiq Masih's case (supra), it has been held as under:-

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

In view of the above, case of the petitioner is squarely covered by the ratio of law as laid down in Rafiq Masih's case (supra). The amount paid in excess, if any, is not on account of any lapse on the part of the petitioner; it is the department which erred in granting her such a benefit.

Therefore, keeping in view the above, the instant petition is allowed and the impugned order, Annexure P-4, to the extent of effecting recovery to the tune of ₹7000/- per month from the month of August, 2013

(paid on September 2013) onwards, is set aside. The respondent(s) are directed to reimburse the entire amount recovered from the petitioner along with interest at the rate of 6.5% per annum from the date of recovery till actual payment.

Disposed of accordingly.

13.09.2018

vanita

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No