

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 2427 OF 2015
DECIDED ON: JANUARY 15, 2018

MADAN LAL

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Rakesh Nagpal, Advocate,
for the petitioner.

Mr. C.S. Bakshi, Additional Advocate General, Haryana.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Article 226/227 of the Constitution of India, the petitioner has sought issuance of a writ in the nature of certiorari for quashing of order dated 24.01.2014 (Annexure P-2), order dated 21.02.2014 (Annexure P/2A) and order dated 22.01.2015 (Annexure P-5) passed by respondent No.3 whereby pay/pension of the petitioner has been reduced and order of recovery has been passed.

2. At the very outset of the arguments, it has been submitted by learned counsel for the petitioner that he does not press the claim with regard to the quashing of orders referred to above but only lays claim with regard to releasing of withheld amount.

3. Undisputably, the petitioner was granted the benefit of one

increment on his promotion to which he was not legally entitled. Accordingly, recovery of a sum of ₹59,164/- was ordered vide order dated 22.01.2015. There is nothing on the record to suggest that the petitioner committed any fraud or misrepresentation at the time when benefit of increment was granted to him and it was wrongly given by the respondents. Thus, the case of the petitioner is squarely covered within the parameters laid down by the Hon'ble Apex Court in case captioned as “*State of Punjab and ors v. Rafiq Masih etc.*”, 2015 (4) SCC 334. According, to the various observations made in *Rafiq Masih's case* (supra), no recovery can be effected and in case recovery has been effected by the department from the retiral benefits, the same deserves to be released in favour of the employee.

4. Accordingly, petition is partly allowed and the respondents are directed to release/disburse the withheld amount within a period of two months from the date of receipt of certified copy of this order. In case, needful is not done, the petitioner shall be entitled to interest @ 9%, that too, from the date of withholding the amount, till the actual payment.

JANUARY 15, 2018
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes*

Whether reportable *Yes/No*