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

**CWP-766-2018 (O&M)
Date of decision: 31.08.2018**

Pooja Chaudhry**...Petitioner**

Versus

**Haryana State Cooperative Supply and Marketing Federation Ltd. and
another****...Respondents****CORAM:HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. R.K.Malik, Senior Advocate with
Mr. Mandeep Malik, Advocate
for the petitioner.

Mr. Deepak Manchanda, Advocate
for the respondents.

Ritu Bahri, J. (Oral).

The petitioner is seeking setting aside the order dated 07.12.2007
whereas the pay has been re-fixed and the recovery has been made of
Rs. 1,24,500/-.

Vide order dated 21.02.2011(Annexure P-1), the petitioner was
granted pay fixation as on 01.07.2008 at Rs. 25,340/- after giving her the benefit
of increments at Rs. 740/- after promotion. Thereafter, in 2009-2010, she has been
granted one more increment w.e.f. 01.07.2008. Vide impugned order dated
07.12.2017, the date of increment which was granted to the petitioner w.e.f.
01.07.2008 withdrawn and the benefit of one increment after promotion was
granted to the petitioner w.e.f. 01.07.2009 (Annexure P-2), and accordingly, her
pay has been fixed at Rs. 24600/- as on 31.03.2008. As per re-fixation, the pay of
Rs. 25,340/- has been granted to her w.e.f. 01.07.2009 and on account of this

re-fixation recovery of Rs. 1,24,500/- has been made from her pay.

The petitioner is referring to the judgment passed by the Hon'ble Supreme Court in the case of ***State of Punjab and others etc Versus Rafiq Masih (White Washer) etc*** (Annexure P-3) whereby it has been held that no recovery can be effected on account of re-fixation of the employee if the employee has not made any misrepresentation at the time of fixation of pay.

Learned counsel for the respondent states that at the time of fixation of the pay, the petitioner had given an undertaking that she will not have any objection to recovery if any excess payment is made to her. This condition has been considered by the Coordinate Bench of this Court in ***CWP No. 4575 of 2014*** titled as ***Kamlesh Jain Versus Haryana Warehousing Corporation*** decided on 05.05.2015 and it has been held that an employee has no option except to succumb to the pressure of the establishment and has a weak bargaining power at the time of fixation of his pay scale and LPA against the said judgment has also been dismissed on 21.04.20016.

In view of the above, the writ petition is allowed and the respondents are directed to return the recovered amount within four months.

31st August, 2018

shabha

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No