

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.2824 of 2014

ORDER:

When the matter is taken up for hearing, the learned counsel for the petitioner has contended that the petitioner was working as Assistant Depot Manager and he retired from service on 31.09.2013 on attaining the age of superannuation. After retirement, the respondents have recovered an amount of Rs.1,70,104/- from the terminal benefits of the petitioner and the same is not permissible in view of the law laid down by the Hon'ble Supreme Court in *STATE OF PUNJAB AND OTHERS Vs. RAFIQ MASIH (WHITE WASHER) AND OTHERS*¹. Therefore, appropriate orders be passed in the writ petition directing the respondents to refund the amount of Rs.1,70,104/- to the petitioner along with interest.

The learned Standing Counsel appearing for the respondents has contended that though no orders of recovery were issued while the petitioner was in service, however for the lapses committed by the petitioner while he was in service, an amount of Rs.1,70,104/- was recovered from him. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the respective parties, is of the considered view that the Hon'ble Supreme Court in the aforesaid judgment at para '18' had illustrated certain guidelines under which an employer can recover amount from the employees after retirement. From a perusal of the facts in the instant case, it is evident that the facts in the present case clearly attract the guidelines issued by the Hon'ble Supreme

¹ (2015) 4 Supreme Court Cases 334

Court in the aforesaid judgment. Admittedly, no proceedings were issued for recovering the amount from the petitioner while he was discharging duties and the respondents without there being any order had straight away recovered the amount of Rs.1,70,104/- from the terminal benefits of the petitioner without giving any opportunity to the petitioner and the same is impermissible. Therefore, the action of the respondents in recovering the amount of Rs.1,70,104/- from the terminal benefits of the petitioner is illegal and arbitrary.

Hence, the writ petition is allowed and the respondents are directed to refund the amount of Rs.1,70,104/- to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

12-09-2019
Prv