

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP-1511-2019

Date of Decision: 21.01.2019

Dharampal and others

... Petitioners

vs.

State of Haryana and others

.. Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. B.S.Rathee, Advocate  
for the petitioners.

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**HARSIMRAN SINGH SETHI, J**

Learned counsel for the petitioners states that the recovery is being ordered from the petitioners after their retirement after re-fixing their pay by the respondents. He further submits that the recovery cannot be ordered from the petitioners in view of the settled principle of law after retirement, as held by the Hon'ble Supreme Court of India in **State of Punjab and others vs. Rafiq Masih (White Washer), 2015 (4) SCC, 334**. He further states that in respect of the order passed by the respondents on 12.03.2014 for effecting recovery, the petitioner has already served the respondents with a legal notice claiming that no recovery can be ordered from the salary after retirement.

Learned counsel for the petitioner further states the petitioners will be satisfied, at this stage, in case, the respondents are directed to decide the legal notice dated 18.01.2015 (Annexure P15) in respect of recovery only and not the re-fixation, as the said relief is not being claimed by the petitioners any more.

The present writ petition is disposed of with a direction to the respondents to decide as to whether, any recovery is to be made from the petitioners or not in pursuance to the order dated 12.03.2014 and they shall

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keep in mind the direction given by the Hon'ble Supreme Court of India in **Rafiq Masih'** case (Supra), according to which, the recovery cannot be effected from the employees who have already retired.

Let appropriate order be passed within a period of three months from the receipt of certified copy of this order.

It is, however, made clear that this Court does not express any opinion in respect of the merits of the case or the entitlement of the petitioners as being claimed in the legal notice or in the writ petition.

**21.01.2019**  
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**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No