

**503 CWP NO.3283 OF 2005
GURPREET KAUR V/S STATE OF PUNJAB & ORS.**

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Present: Mr. RS Khaira, AAG Punjab along with
 Mr. KS Bajwa, DEO (SE), Patiala,
 Mr. Daljit Singh, Legal Assistant,
 Office of the DEO (SE), Patiala,
 Mr. Rinku Kumar, Clerk, Government Sr. Sec. School,
 Civil Lines, Patiala.

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Petitioner in this case retired as Social Study Mistress on January 31, 2005. The pension case of the petitioner was prepared and sent to respondent No.4, who sanctioned the pension as well as the gratuity vide order dated January 27, 2005 for an amount of Rs.3,09,712/-. It was, thereafter, the department while preparing the withdrawal amount of gratuity, came to a conclusion that Rs.36,344/- deserves to be deducted from the amount of gratuity as excess payment was drawn by the petitioner by way of wrong fixation of salary. Consequently, an amount of Rs.2,76,369/- was released in favour of the petitioner after deducting an amount of Rs.36,344/-. It was in these circumstances, the petitioner filed the present writ petition seeking an appropriate writ, order or direction especially in the nature of certiorari declaring the action of the respondents in effecting recovery of Rs.36,344/- from the gratuity of the petitioner on account of alleged wrong fixation of pay during service in the absence of any show cause notice being illegal and unconstitutional. It is stated that the controversy in this regard is squarely covered in favour of the petitioner by a decision of the Supreme Court in the case of Civil Appeal No.11527 of 2014 titled State of Punjab & Others Vs. Rafiq Masih & Ors., decided on 18.12.2014. In view of the above, learned AAG Punjab submits that the writ petition deserves to be allowed and the order of the respondent-authorities directing recovery be quashed as the controversy in this case is squarely covered by the judgment of the Supreme Court, referred to above.

Mr. KS Bajwa, DEO (SE), Patiala appearing with Mr. Daljit Singh, Legal Assistant, states that the amount deducted from the gratuity of the petitioner in the sum of Rs.36,344/- shall be refunded to the petitioner within a period of three months from today.

In view of the stand of the department that the amount of Rs.36,344/- shall be refunded to the petitioner within a period of three months, this writ petition has been rendered infructuous and is, therefore, ordered to be consigned to record.

(G.C. GARG)
PRESIDENT

(K.C. GUPTA)
MEMBER

December 19, 2019

NainaRajput