

CWP-19772-2016 and
CWP-2877-2017

- 1 -

217/2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 29.10.2019

CWP-19772-2016

Mohan Singh and others

... Petitioners

v/s

Panjab University and another

... Respondents

CWP-2877-2017

Pradeep Kumar Shukla and others

... Petitioners

v/s

Panjab University and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present :- Mr. Navdeep Singh, Advocate
for the petitioners.

Mr. Munish Kumar Choudhary, Advocate
for respondents No. 1 and 2
in CWP No. 19772 of 2016.

Mr. Ashish Rawal, Advocate
for respondents No. 1 and 2
in CWP No. 2877 of 2017.

* * * *

ARUN MONGA, J. (ORAL)

1. Having adverted to the merits of the case and after hearing rival contentions, I am convinced that the case of the petitioners is squarely covered as per ratio enunciated by the Apex Court in case titled “*State of Punjab and others Vs. Rafiq Masih (White Washer) and others*”; reported as **2015 (4) SCC 334**. Relevant part thereof is extracted hereinbelow:

of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

2. A perusal of the above leaves no manner of doubt that petitioners being Group 'C' employees are totally covered by the parameters as postulated above.

3. The petitioners were granted the benefit of pay parity in order to remove the anomaly in their pay scales by a Committee constituted for the purpose in its meeting held on 29.6.2012 as per Annexure P-1. Having once

granted the said benefit, the same was later on sought to be corrected ostensibly on the ground that the petitioners were entitled to the same w.e.f. 1.11.2012 instead of 1.12.2011.

4. For the interregnum, the recovery notice dated 5.9.2016 was issued, which has been impugned herein. Clearly, the said recovery notice flies in the face of **Rafiq Masih's** judgment, *ibid*,.

5. In the premise, the same is not sustainable in law and is, accordingly, set aside with all consequential benefits.

6. Disposed of in the above terms.

A photocopy of this order be placed on the file of connected case.

29.10.2019
Janki

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No