

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-4940-2017

Date of decision: - 22.01.2020

Harbhajan Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Manish Prabhakar, Advocate
for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the challenge is to the recovery, which has been done after his retirement from the pensionary benefits of the petitioner. Petitioner is relying upon a judgment of the Hon'ble Supreme Court of India passed in '**State of Punjab** Vs. **Rafiq Masih (White Washer) etc., (2015) 2 SCC 608** wherein it has been held that no recovery can be done from the retiral benefits of a retiree.

On the other hand, learned counsel for the respondents is relying upon an undertaking, which the petitioner had given stating that he will raise no objection for recovery of the amount in case it is found that his pay was wrongly fixed w.e.f. 01.01.1986 or 01.01.1996. Learned counsel for the respondents argues that keeping in view the law laid down

by the Hon'ble Supreme Court in High Court of Punjab and Haryana and others Vs. Jagdev Singh, 2016(4) S.C.T. 286, wherein, it has been held that where there is an undertaking given by an employee, the judgment in Rafiq Masih's case (supra) will not be applicable.

Learned counsel for the petitioner argues that the said undertaking was obtained under coercion and therefore, the same carries no value.

Keeping in view the above, this writ petition involves disputed question of facts, which cannot be decided in the present proceedings.

Faced with this situation, learned counsel for the petitioner prays that he may be allowed to withdraw the present writ petition with liberty to the petitioner to challenge the said undertaking before the Competent Court of Law and also claim the benefit of refund of the recovered amount, by filing the appropriate proceedings before the civil Court.

Dismissed as withdrawn, with the liberty, as prayed for.

January 22, 2020
naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No