

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANIDGARH

214

CWP-9142-2017

Date of Decision: 18.02.2020

Randhir Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr.Kartar Singh Malik, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. Advocate General, Haryana.

NIRMALJIT KAUR, J (ORAL)

Prayer in the present petition is for quashing of the impugned order dated 28/29.4.2016 (Annexure P-5) passed by respondent No.2 and impugned order dated 02.03.2017 (Annexure P-6) passed by respondent No.5 whereby an amount of ₹ 1,03,277/- has been ordered to be recovered from the petitioner as well as the impugned letter dated 11.04.2017 (Annexure P-7) issued by respondent No.6, whereby the pension of the petitioner has been reduced from ₹ 6450/- to ₹ 3600/- per month.

Learned counsel for the petitioner at the very outset restricts his prayer to the extent of the recovery of ₹ 1,03,277/- which has been ordered to be effected from him.

It is settled proposition of law that once an excess amount has been paid on account of fixation of the salary, the respondents cannot

recover the same, especially after the retirement of the said employee on the ground that it was wrongly fixed as long as there is no misrepresentation by the employee.

Learned counsel for the petitioner is not able to dispute the well settled proposition of law laid down in the case of ***State of Punjab and others vs. Rafiq Masih (White Washer) (2015) 4 SCC 334***, wherein it is held that the recovery would be impermissible in law in the following situations :-

“18.

- (i) *Recovery from employees belonging to ClassIII 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.”*

The case of the petitioner is fully covered and satisfies the conditions mentioned above.

In view of the same, the order dated 02.03.2017 (Annexure P-6) is set aside to the extent vide which the excess amount of ₹ 1,03,277/- has been ordered to be recovered.

The writ petition is partly allowed in the above terms.

18.02.2020
Satyawar

(NIRMALJIT KAUR)
JUDGE

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