

result thereof, an amount of Rs. 1,16,358/- came to be recovered.

4. Perusal of the refixation order dated 27.11.2018 shows that the recovery is in respect of the period from 01.01.2006 to 01.07.2018. Admittedly, the petitioner is a Class-III employee and the recovery is in respect of the period exceeding five years. It also appears that the petitioner has taken voluntary retirement on 30.09.2018. Thus, the case of the petitioner is covered by principle Nos. I, II and III of the judgment of the Supreme Court in the case of **State of Punjab and others Vs. Rafiq Masih (White Washer) etc; (2015) 4 SCC 334**.

5. The only objection that the learned counsel for the respondent Nos. 2 and 3 has about the action of recovery being set aside is delay of about two years in filing the present petition. He contends that the petitioner's refixation of pay was rejected on 27.11.2018 and that the entire amount has already been recovered before filing of the present petition. He contends that the petitioner could not have filed the present petition after the entire amount was recovered. In our opinion, the delay of about two years in approaching this Court cannot be treated as fatal to the case of the petitioner particularly when the case of the petitioner is squarely covered by the decision of the Supreme Court in the matter of **Rafiq Masih (supra)**. In the circumstances of the case, we are inclined to exercise our jurisdiction under Article 226 of the Constitution of India.

6. We, therefore, proceed to pass following order :

(A) The action of the respondent Nos. 2 and 3 in effecting the recovery of Rs. 1,16,358/- is quashed and set aside.

(B) The respondent Nos. 2 and 3 are directed to refund the amount of Rs. 1,16,358/- to the petitioner within a period of eight weeks from today.

7. The writ petition is accordingly allowed and disposed of.

8. Rule is made absolute.

(SANDEEP V. MARNE J.)

(MANGESH S. PATIL, J.)

mkd/-