

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-7961-2019

DATE OF DECISION: 18.08.2022

DAYA SINGH

... Petitioner(s)

Versus

EXECUTIVE ENGINEER PUNJAB MANDI BOARD AND ANOTHER

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. D.R. Punia, Advocate for the petitioner.

Mr. A.S. Pannu, Advocate and
Mr. Vikas Singh, Advocate for the respondents.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has impugned the order dated 17.01.2019 (Annexure P-1) whereby the recovery of excess amount given in salary has been ordered to be effected.

Learned counsel for the petitioner submits that the petitioner was working as a Supervisor which is a Class III post when the impugned order had been passed. The petitioner had not made any representation with regard to the payment of the alleged excess amount to him. The petitioner has now retired from service after attaining the age of superannuation. He has relied upon the judgment of the Supreme Court in the case of **State of Punjab Vs. Rafiq Masih reported as 2015 (2) SCC (Civil) 608**.

Learned counsel for the respondents contends that an excess amount of salary had been paid to the petitioner. The recovery had been

ordered in four monthly instalments. A sum of Rs.38100/- out of Rs.50800/- has already been recovered from the petitioner in easy instalments.

Heard.

The petitioner was working as a Supervisor with the respondents. The post of Supervisor is a Class III post. This Court by the order dated 26.03.2019 while issuing notice had directed the recovery in pursuance to the impugned order shall remain stayed. The petitioner had not, in any manner, misrepresented for the payment of the excess amount. The petitioner has now superannuated from service. His case would fall under the exceptions carved out by the Supreme Court in the case of **State of Punjab Vs. Rafiq Masih (supra)**.

Learned counsel for the petitioner submits that despite this Court having stayed recovery, the respondents had effected recovery even thereafter.

Learned counsel for the respondents submits that no recovery has been effected after passing of the interim order.

Consequently, the petition is allowed and the impugned order 17.01.2019 (Annexure P-1) is set aside. No recovery shall be effected from the petitioner. In the event of any recovery having been effected from the petitioner after passing of the interim order dated 26.03.2019, the same shall be refunded to the petitioner within a period of two months from now.

(ANUPINDER SINGH GREWAL)
JUDGE

18.08.2022

SwarnjitS

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No