

In the High Court of Punjab and Haryana at Chandigarh

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CWP-6610-2017 (O & M)

Date of Decision: September 29, 2022

SATISH KUMAR

.....PETITIONER

VERSUS

STATE OF PUNJAB & ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr.L.S.Virk, Advocate for the petitioner.

Ms.Akshita Chauhan, DAG, Punjab.

Mr. A.S. Manaise, Advocate for respondent No.3.

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioner has impugned the order dated 28.02.2017 whereby the recovery is sought to be effected from him.

Learned counsel for the petitioner submits that the petitioner, who was working as a Clerk, had been granted pay scale of Rs.5000-8100 w.e.f. 01.01.1996. He had been drawing this pay scale till the passing of the impugned order. Vide the impugned order, the pay of the petitioner has been re-fixed in the pay scale of Rs.4400-7000 w.e.f. 01.01.1996 and recovery has been effected from the salary already paid. There is no misrepresentation or fraud on his part.

Learned counsel for respondent No.3 submits that as the pay of the petitioner had been wrongly fixed, the error had been corrected and the salary of the petitioner had been re-fixed in the pay scale of Rs.4400-7000.

This Court by the order dated 29.03.2017 had stayed the recovery in pursuance to the impugned order.

Heard.

The petitioner was working as a Class-III employee, when he had been granted the pay scale of Rs.5000-8100. There is no material on record which would indicate that there was any misrepresentation on the part of the petitioner when the afore-noted pay scale had been granted to him. The salary in this pay scale had been paid to the petitioner for over 18 years. I am of the considered view that the case of the petitioner would fall under the exceptions carved out by the Supreme Court in the case of *State of Punjab and others versus Rafiq Masih (White Washer) etc., 2015(4) SCC 334* wherein the recovery would be unjust and cause hardship. The petitioner being a Class-III employee had been paid the salary in the afore-noted pay-scale for over 18 years.

Consequently, the petition is allowed and impugned order is set aside to the extent of effecting recovery from the petitioner.

(ANUPINDER SINGH GREWAL)
JUDGE

September 29, 2022
A.Kaundal

Whether speaking/ reasoned	:	Yes/No
Whether Reportable	:	Yes/No