

3. The Respondent was initially appointed as Telecommunication Inspector Grade III. The Respondent was promoted as Work Study Inspector in the year 1984. The Respondent retired on

superannuation on 30 April 2017. Few days prior to his retirement, the Respondent received a notice that the pay scale of the Respondent was receiving was wrongly fixed and the recovery of Rs. 13,00,000/- be made from pensionary benefits payable to the Respondent. The Petitioners took this action on the basis that the grade pay which was to be paid to the Respondent was Rs. 4800/-, however, he was wrongly being paid the grade pay of Rs. 5,400/-. The Tribunal passed the impugned order holding in favour of the Respondent that the recovery of Rs.13,00,000/- should not have been made from the Respondent.

4. As regards challenge of the Respondent regarding reduction of the grade pay is concerned, the Respondent has filed an independent Writ Petition bearing (St.) No. 5082 of 2020, which is pending.

5. In the present Petition, we are concerned with the order of the Tribunal regarding return of the recovered amount.

6. Having heard the learned Counsel for the parties and perusing the impugned order, we do not find any reason to interfere in the conclusion of the Tribunal that the recovery made from the Respondent was contrary to the law laid down by the Hon'ble Supreme Court in the case of *State of Punjab and Ors. v. Rafiq Masih (Whitewasher)*¹. The recovery was sought to be made from the Respondent after 30 years and few days before his retirement. The

¹ (2014) 8 SCC 883

Respondent had asserted that he was always group 'C' employee and retired from that category. It is not the case of the Respondent that there was any fraud committed by the Respondent. The only argument of the Petitioners is that the Respondent was incorrectly paid the amount and therefore, reduction in pay was justified. This is, however, the subject matter of the challenge in Writ Petition (St.) No. 5082 of 2020 filed by the Respondent. Thus, as regards the order of recovery is concerned, the Tribunal was correct in applying the law laid down in the case of *Rafiq Masih (Whitewasher)*.

7. We are informed that the amount of Rs.13,00,000/- which was deducted by way of recovery from the Respondent is also now paid back to the Respondent by the Petitioners.

8. There is no merit in the Writ Petition and the same is accordingly rejected.

9. Writ Petition (St.) No. 5082 of 2020 filed by the Respondent will be considered on its own merits.

(MANJUSHA DESHPANDE, J.) (NITIN JAMDAR, J.)