

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 147

Civil Writ Petition No.16391 of 2023
Date of Decision: July 31, 2023

Rajpal Singh and others

..... PETITIONER(S)

VERSUS

State of Haryana and others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. Subhash Ahuja, Advocate for the petitioners.

Mr. Ravinder Singh Budhwar, Addl. AG, Haryana.

. . .

Tribhuvan Dahiya, J. (Oral)

These petition has been been filed seeking quashing of the orders dated 03.03.2022, 17.10.2022, 11.11.2022, 15.12.2022 and 27.12.2022, whereby the respondents were directed to effect recovery from the petitioners after revising their pay as per Rules.

2. Learned counsel for the petitioners contends that the petitioners are drawing the stepped-up pay, which is sought to be refixed, for the last many years. The benefit was given to them by refixing the pay at par with that of their juniors as per orders issued by the respondents in terms of judgment of this Court in CWP No. 11254 of 2010, *Neelam Rani v. The State of Haryana and others* (Annexure P-5). The impugned recovery orders are contrary to the judgments which have been passed without affording any opportunity of hearing to the petitioners. This is in violation of the Principles of Natural Justice as well as the Instructions issued by the State Government dated 23.02.2016, which is to the effect that recovery from the employees

belonging to Class-III and Class-IV cannot be made in terms of the law laid down by the Supreme Court in *State of Punjab and others v. Rafiq Masih*, 2015 (4) SCC 334. He further contends that at this stage the petitioners will be satisfied, in case before effecting recovery they are afforded an opportunity of hearing, and the issue is considered by the respondents in terms of Instructions dated 23.02.2016.

3. Learned State counsel submits that before effecting recovery proper notice will be issued to the respondents, and a considered decision will be taken in the light of Instructions dated 23.02.2016.

4. In view thereof, the impugned recovery orders *qua* the petitioners are hereby set aside. At the same time, liberty is granted to the respondents to pass fresh speaking order(s) after affording opportunity of hearing to the petitioners and considering the relevant law as well as Instructions on the issue.

5. Disposed of.

(Tribhuvan Dahiya)
Judge

July 31, 2023
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<u>Whether Speaking/ Reasoned:</u>	<u>Yes/ No</u>
<u>Whether Reportable:</u>	<u>Yes/ No</u>