

201-1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-8546-2005 (O&M)

Date of Decision: 22.09.2023

Subhash Chander

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Sanjiv Sharma, Advocate,
for the petitioner.

Mr. Vishnav Gandhi, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner by way of this writ petition has challenged the recovery proceedings initiated against him by the office order dated 24.05.2005 (P-11) wherein it has been alleged that excess amount is required to be recovered from the petitioner on the basis of audit objections.
2. The order of recovery dated 24.05.2005 was stayed by this Court by issuing notices on 26.05.2005.
3. This Court also notices that the petitioner had made available an order passed by the Supreme Court to the concerned respondent for not making recovery, but the Senior Technical Officer, although mentioned in the order about the order passed by the Supreme Court, the same was ignored while passing the operative order.
4. In *State of Punjab and others vs. Rafiq Masih, 2015 (4) SCC 334*, the Supreme Court held as under:

“12. Reference may first of all be made to the decision in *Syed Abdul Qadir v. State of Bihar*, wherein this Court recorded the following observation in para 58: (SCC p. 491)

"58. The relief against recovery is granted by courts not because of any right in the employees, but in equity, exercising judicial discretion to relieve the employees from the hardship that will be caused if recovery is ordered. But, if in a given case, it is proved that the employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where the error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, courts may, on the facts and circumstances of any particular case, order for recovery of the amount paid in excess. See *Sahib Ram v. State of Haryana*³, *Shyam Babu Verma v. Union of India*², *Union of India v. M. Bhaskar*, *V. Gangaram v. Directors*, *B.J. Akkara v. Govt. of India*¹, *Purshottam Lal Das v. State of Bihar*¹⁰, *Punjab National Bank v. Manjeet Singh and Bihar SEB v. Bijay Bhadur*¹²" (emphasis supplied)"

- 5. Keeping in view the aforesaid, this Court is satisfied that the recovery could not have been made solely on the basis of audit objections. The interim order dated 26.05.2005 passed by the Court therefore is made absolute and the impugned order dated 24.05.2005 is quashed with all consequential benefits.
- 6. Writ Petition stands *allowed*.
- 7. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

September 22, 2023
Mohit goyal

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |