

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

103

**CWP-21237 of 2018
Date of Decision: 28.02.2023**

Udey Singh

....Petitioner(s)

Versus

Punjab State Power Corporation Ltd. (PSPCL) and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Mr. Abhilaksh Grover, Advocate,
for the respondents.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the order dated 05.12.2013 (Annexure P-4) passed by respondent No.4 vide which an amount of Rs.72,544/- has been recovered from the gratuity of the petitioner.

Learned counsel for the petitioner submitted that the petitioner retired as a Lineman on 30.06.2013 from the respondent Corporation. However, after his retirement, there has been a recovery of an amount of Rs.72,544/- from the gratuity of the petitioner and the reason for the recovery of the aforesaid amount was that while he was in service, he was granted the benefit of proficiency step up in the year 1987 by the Corporation (as it was then Punjab State Electricity Board). He submitted that the said benefit of

proficiency step up which was given to the petitioner during his tenure and during his service period, was given by the Corporation on their own and it was not the result of any fraud or misrepresentation by the petitioner. He further submitted that the petitioner being Lineman falls in the Category C (Group III) and after his retirement such a recovery was impermissible in view of the law laid down by the Hon'ble Supreme Court in judgment of the **State of Punjab and others versus Rafiq Masih (White Washer), etc.** 2015 (4) SCC 334. He further submitted that he is entitled for the refund of the aforesaid amount alongwith interest since it was violative of the settled law and submitted that even the State of Punjab and the Corporation itself had issued various instructions with a direction that the guidelines in the law laid down by ***Rafiq Masih***'s case (supra) be complied with.

On the other hand, Mr. Abhilaksh Grover, learned counsel appearing on behalf of the respondents submitted that it is correct that while the petitioner was in service, he was granted the benefit of proficiency step up by the Corporation on their own and it was not the result of any fraud or misrepresentation by the petitioner and now recovery has been effected after his retirement.

I have heard the learned counsel for the parties.

The facts of the present case are not in dispute. The petitioner while in service was granted the benefit of proficiency step up in the year 1987 and he retired in the year 2013 and after his retirement, there was a recovery of an amount of Rs.72,544/- from his gratuity. The petitioner admittedly retired as a Lineman which falls in the Category C (Group III) and therefore in view of the judgment passed by the Hon'ble Supreme Court in ***Rafiq Masih***'s case

(supra) and the instructions issued by the State of Punjab and the Corporation vide Annexure P-6 no recovery could have been effected.

In view of the aforesaid facts and circumstances, the present petition is allowed. The order (Annexure P-4) effecting recovery from the petitioner is set aside. The aforesaid amount shall be refunded back to the petitioner alongwith the interest @6% per annum from the date it was recovered from the petitioner till the time it is paid back to the petitioner. The said amount shall be paid alongwith the interest within a period of four months from today. In case the aforesaid amount is not paid within the aforesaid period of four months, then the petitioner shall be entitled for future interest @9% per annum instead of 6% per annum.

(JASGURPREET SINGH PURI)
JUDGE

February 28, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No