

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO.4739 of 2017

Date of Decision: 19.01.2023

Vijay Rani

.....Petitioner

Versus

State of Haryana and othersRespondents

CORAM HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present Mr.Gunjan Mehta, Advocate
for the petitioner.

Mr.Tapan Kumar Yadav, DAG, Haryana.

Mr.I.S.Sidhu, Advocate
for respondent no.4.

RAJ MOHAN SINGH, J (ORAL)

Petitioner has preferred this writ petition for the issuance of a writ in the nature of Certiorari for quashing the action of the respondent in reducing the pension of the petitioner w.e.f 01.01.2012 and effecting recovery after retirement of the petitioner in utter violation of law laid down in **State of Punjab and others v. State of Rafiq Masih (White Washer) 2015(4) SCC 334** on the pretext of wrong fixation of date of increment on granting Super Selection Grade on 01.05.2000.

During course of arguments, the grievance of the petitioner is that the stand of the respondent in reducing the pension of the petitioner w.e.f 01.01.2012 on account of wrong fixation of date of increment on granting Super Selection Grade

on 01.05.2000 may be a correct step but payment of excess amount on wrong fixation of the date of increment cannot be recovered after the retirement of the petitioner in view of **Rafiq Masih's case (supra)** particularly when there was no such undertaking given by the petitioner at the time of receiving the excess amount.

Learned counsel for the petitioner has also admitted that on reducing the pension of the petitioner the excess amount paid has been recovered by means of fixing instalments and those instalments have been recovered from the reduced pension of the petitioner. In view of this position, the amount already recovered from the petitioner is liable to be refunded back to the petitioner.

There is no dispute on factual matrix that there was a wrong fixation of date of increment on granting Super Selection Grade on 01.05.2000 and accordingly the amount was paid. Subsequently, the pension was reduced and the excessive amount paid to the petitioner was recovered in the form of instalments from the reduced pension. The grievance of the petitioner is that atleast petitioner is entitled to recover the amount so recovered from the reduced pension of the petitioner. The amount, if any, recovered after the retirement of the petitioner is liable to be refunded to the petitioner. There is no dispute on factual matrix of the case; admittedly there was no

undertaking executed by the petitioner at the time of receiving excess amount based on wrong fixation of date of increment on grant of Super Selection Grade.

For the reasons recorded hereinabove, recovery, if any, made from the petitioner after re-fixing the pension and that too after retirement is not permissible in view of **Rafiq Masih's case (supra)** and the said amount, if recovered, is ordered to be refunded to the petitioner within a period of three months from the date of receipt of certified copy of this order.

Disposed of.

(RAJ MOHAN SINGH)
JUDGE

19.01.2023
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No