

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(262)

1.	CWP-459-2024	
Jugraj Singh		Petitioner
	Versus	
State of Punjab and others		Respondents
2.	CWP-463-2024	
Manjit Singh		Petitioner
	Versus	
State of Punjab and others		Respondents
3.	CWP-477-2024	
Sukhvir Singh		Petitioner
	Versus	
State of Punjab and others		Respondents
4.	CWP-506-2024	
Makhan Singh		Petitioner
	Versus	
State of Punjab and others		Respondents
5.	CWP-558-2024	
Ajaib Singh		Petitioner
	Versus	
State of Punjab and others		Respondents

6.

CWP-622-2024

Gurjant Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

Date of decision: - 04.03.2024

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Ranjivan Singh, Advocate, and
Ms. Kanika Toor, Advocate, and
Mr. Risham Raag Singh, Advocate,
for the petitioner(s).

Ms. Neha Sonawane, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

1. This order will dispose of above-said six writ petitions, in which, common question of law and facts arise.
2. On 11.01.2024, this Court was pleased to pass the following order: -

*“Inter alia contends that the petitioner had retired several years prior to the deduction / refixation of the pay and the petitioner is not challenging the refixation but has made a limited prayer that no recovery should be effected from him as the petitioner is a retired employee. In support of the said argument, learned counsel for the petitioner has relied upon the judgment of the Hon’ble Supreme Court passed in **State of Punjab and others vs. Rafiq Masih (White Washer) etc. reported as 2015(14) SCC 334.***

Notice of motion for 04.03.2024.

To be taken up at 01:45 PM.

Mr.Ferry Sofat, Addl.A.G. Punjab, appears and accepts notice on behalf of the respondents and prays for an adjournment to file reply.

Reply be filed on or before the next date of hearing with an advance copy to learned counsel for the petitioner.

Till the next date of hearing, no further recovery would be

effected from the petitioner(s).

A photocopy of this order be placed on the files of other connected cases.”

3. Learned counsel for the petitioner(s) in all the writ petitions has reiterated the fact that the petitioners are not challenging the refixation of their pay, but have made a limited prayer that no recovery should be effected from them as the petitioners in all the writ petitions are retired employees. Reliance has been placed upon a judgment of the Hon'ble Supreme Court in **Rafiq Masih (White Washer) case (supra)**, para 12 of the said judgment has been highlighted and the relevant portion of the same is reproduced herein below: -

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

13. We are informed by the learned counsel representing the

appellant- State of Punjab, that all the cases in this bunch of appeals, would undisputedly fall within the first four categories delineated hereinabove. In the appeals referred to above, therefore, the impugned orders passed by the High Court of Punjab and Haryana (quashing the order of recovery), shall be deemed to have been upheld, for the reasons recorded above.”

4. Learned counsel for the petitioner(s) has submitted that a perusal of above-said para would show that the Hon'ble Supreme Court had summarized certain situations wherein the recoveries by the employers would be impermissible in law, where the payments had been made mistakenly by the employer, in excess of entitlement to the employee and one such situation, as provided under Clause (ii) of Para 12, was recovery from retired employees or employees who are due to retire within one year, of the order of recovery. It is stated that the case of the present petitioners is squarely covered under the said clause (ii) as it is not in dispute that all the employees who are the petitioners before this Court are retired employees.
5. Learned State counsel has not able to dispute the law laid down in the above-said judgment and has no objection to the said limited prayer made by learned counsel for the petitioners.
6. Keeping in view the above-said facts and circumstances, the present writ petitions are allowed to the extent that no recovery in pursuance of the impugned action of the respondent authorities would be effected from the present petitioners.

March 04, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
Yes