



CWP-21027-2011

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-21027-2011
Date of Decision: 10.09.2024

Ram Chander

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Vikas Chatrath, Advocate, and Ms. Tanya Sehgal, Advocate,
Mr. Bhanu Pratap, Advocate for the petitioner

Mr. Harish Rathee, Sr. DAG, Haryana

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the order dated 26.05.2010, Annexure P-4, whereby the petitioner's pay was fixed in the functional pay-scale after withdrawing the benefit of financial upgradation in terms of the Haryana Civil Services (Assured Career Progression) Rules, 1998, since he had forgone promotion as Headmaster.

2. The petitioner was granted 1st and 2nd ACP scales on 10.02.2003 as Headmaster, which were withdrawn vide impugned order dated 26.05.2010, Annexure P-4. He later superannuated from service on 31.10.2010.

3. Learned State counsel has referred to Rule 11 of the instructions issued by the Finance Department, dated 26.11.2002, to the effect that in case a Government employee chooses to forego any functional promotion on any ground whatsoever while drawing his pay in the prescribed functional pay-



scale, he/she shall not to be entitled to draw pay in any ACP scale. And will be given pay in the functional pay-scale prescribed for the post on which he was substantially working, from the date promotion was forgone.

4. It is not in dispute that the petitioner had foregone promotion as Head Teacher, and resultantly the benefit of 1st and 2nd ACP scales were withdrawn. This was in terms of instructions, dated 26.11.2002, and resultantly no exception can be taken to it.

5. While issuing notice of motion, this Court vide interim order dated 15.11.2011, restrained the respondents from effecting any recovery from the petitioner pursuant to the impugned order. Law in this regard is already well settled in *State of Punjab and others v. Rafiq Masih (White Washer) and others*, (2015) 4 SCC 334, that recovery of the excess payment cannot be effected from a retired employee.

6. In view thereof, the petition stands disposed of without interfering with the impugned order dated 26.05.2010, at the same time, restraining the respondents from effecting recovery pursuant thereto.

(TRIBHUVAN DAHIYA)
JUDGE

10.09.2024
Payal

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