

**CWP No.1070 of 2000 (O&M)  
and another connected case**

2025:PHHC:016073



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

(1) **CWP No.1070 of 2000 (O&M)**  
Ranjit Sagar Dam Madjoor Union ...Petitioner  
Versus  
State of Punjab & ors. ...Respondents

(2) **CWP No.16226-2000 (O&M)**  
Thein Dam Workers Union ...Petitioner  
Versus  
Punjab State ...Respondent

**Date of decision: February 03, 2025**

**Coram: Hon'ble Mr. Justice Harsimran Singh Sethi**

**Present: None for the petitioner(s).**

**Mr. Soloman Partap Singh, AAG, Punjab.**

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**Harsimran Singh Sethi, J. (Oral)**

1. By way of this common order, two petitions bearing CWP Nos.1070 and 16226 of 2000 are being disposed of as the common facts and question of law are involved in both the cases. However, for the sake of convenience, the facts are being extracted from CWP-1070-2000.
2. In the present petition, notice was issued on 28.01.2000 and the recovery being made by the State was stayed and since then 24 years have passed.

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3. No-one is appearing on behalf of the petitioner(s). Further, the affected members of the petitioner(s)-Union(s) must have retired as of now.

4. Perusal of record would go on to show that it is a case of recovery of excess payments due to wrong fixation of pay by the employer.

5. The said question of law has already been settled by Hon'ble Supreme Court of India in the case of '**State of Punjab and others Vs. Rafiq Masih (White Washer) etc.**' 2015(1) S.C.T. 195 wherein it has been held that no recovery can be done from a retired employee. The relevant paragraph 12 of the said judgment reads as under:-

*“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 ClassIV 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*

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*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.”*

5. Further in ***Civil Appeal No.7115 of 2010 titled as ‘Thomas Daniel Vs. State of Kerala and others’, decided on 02.05.2022***, Hon’ble Supreme Court of India has held that no recovery can be done from an employee, who never misrepresented. The relevant paragraph of the judgment is as under:-

*“(9) This Court in a catena of decisions has consistently held that if the excess amount was not paid on account of any misrepresentation or fraud of the employee or if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order which is subsequently found to be erroneous, such excess payment of emoluments or allowances are not recoverable. This relief against the recovery is granted not because of any right of the employees but in equity, exercising judicial discretion to provide relief to the employees from the hardship that will be caused if the recovery is ordered. This Court has further held that if in a given case, it is proved that an employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, the courts may on the facts and circumstances of any particular case order for recovery of amount paid in excess.”*

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6. Keeping in view the settled principles of law, no recovery can be made from the members of the petitioner(s)-Union(s) in view of the law laid down by Hon'ble the Supreme Court of India in the cases of ***Rafiq Masih (supra)*** and ***Thomas Daniel (supra)***.

7. In view of the above, both the writ petitions are disposed of in the above terms.

8. A photocopy of this order be placed on the file of another connected case.

**February 03, 2025**  
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**(Harsimran Singh Sethi)**  
**Judge**

Note: Whether speaking/reasoned:  
Whether Reportable:

Yes  
No