

2025:PHHC:131379



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

SR. NO.106

CWP-3476-2020 (O&M)

DATE OF DECISION:22.09.2025

KARAMJIT KAUR

...PETITIONER(S)

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. G.S. Nahel, Advocate
for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

N.S. SHEKHAWAT, J.

1. The petitioner has filed the present petition with a prayer to issue a writ in the nature of certiorari for quashing the orders dated 02.06.2019 (Annexure P-1) and 19.06.2017 (Annexure P-2) passed by respondent No.3, whereby recovery of excess payment had been ordered to be deducted from the retiral benefits of the petitioner.

2. Learned counsel for the petitioner contended that the petitioner had joined as Bal Sewika on 06.10.1970 and was promoted as Clerk on 04.08.1988. She was further promoted as Superintendent Grade-II on 06.07.2004 and she ultimately retired from the said post on 30.06.2015 on attaining the age of superannuation. Learned counsel next submitted that on 02.06.2017 and 19.06.2017, the Executive Officer, Panchayat Samiti, Bhawanigarh had issued letters to the petitioner, wherein it was mentioned

that due to wrong pay fixation, the recovery has to be effected from the petitioner and the salary of the petitioner was refixed w.e.f. 04.08.1988 to 01.12.2014. He next submitted that even prior to effecting recovery, no show-cause notice was issued to the petitioner, showing any misrepresentative or fraud on her part. Learned counsel next contended that the petitioner has already retired from service and no recovery can be made from her in view of the law laid down by Hon'ble the Supreme Court in the matter of ***State of Punjab Vs. Rafiq Masih* (2015) 4 SCC 334: 2015 AIR SC 696.**

3. On the other hand, learned State counsel has vehemently opposed the submissions made by the petitioner on the ground that refixation of her salary had been correctly done as per the relevant rules and instructions and a recovery of Rs.87,571/- was imposed on the employee after refixation of her salary and she was liable to be returned the said amount to the respondent-Department. Consequently, the deductions have been made, as per rules.

4. I have heard the learned counsel for the parties and perused the case file minutely.

5. As is evident from the submissions made by both the learned counsel for the parties, recovery has been ordered from the retiral benefits of the petitioner on the pretext that the pay-scale of the petitioner was wrongly done. Even the respondent-department has also relied upon a generalised undertaking, which is submitted by the employees in routine. Moreover, the petitioner had already retired on 30.06.2015 on attaining the age of

superannuation and the recovery has been ordered on 02.06.2017 and 19.06.2017 vide orders Annexures P-1 and P-2, respectively.

6. In fact, the issue relating to recovery of the excess amount, which has been made to the employees of the respondent-Department and the recovery thereof has been considered by Hon'ble the Supreme Court in the matter of ***Rafiq Masih (supra)***, wherein it has been held as follows:-

“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, summarize 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.”*

Reverting back to the facts of the present case in hand and respectfully following the law laid down by Hon'ble the Supreme Court in

the case, referred to hereinabove, there is no dispute that the action of the respondent-State to seek recovery of alleged excess payment from the petitioner was patently illegal. It is so said because the respondent-State itself was at fault and they cannot be permitted to draw any benefit out of their own wrong, particularly when there was no allegation against the petitioner about any concealment or misrepresentation for claiming the benefit of alleged excess payment on account of wrong pay fixation.

8. In view of the above, the present writ petition stands allowed. Consequently, the respondents are directed to refund the total amount of Rs.87,571/- along with interest @6% per annum from the date of recovery till actual payment, within a period of three months from the date of receipt of a certified copy of this order. Pending application(s), if any, shall also stand disposed of.

(N.S. SHEKHAWAT)
JUDGE

22.09.2025
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO