



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

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Date of decision: 03.07.2025

CWP-1360-2003 (O&M)

SATBIR SINGH AND OTHERS

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CWP-10999-2007 (O&M)

KRISHAN AND OTHERS

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Raman B. Garg, Advocate with
Mr. Mayank Garg, Advocate
for the petitioners.

Mr. Tapan Kumar, DAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the orders whereby respondents had directed effecting of recovery from the salary of the petitioners.



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2. The petitioners were appointed as Conductors on contractual basis through employment exchange. Their services were to be regularized pursuant to a settlement entered into between the managements and workers' Union on 16.06.1994 and the instructions issued thereafter on 28.07.1994. However the needful was not done compelling the petitioners to approach the High Court in CWP-14370 of 1997. Vide order dated 08.12.1997, respondents were directed to pass appropriate orders in light of the instructions dated 28.07.1994.

3. The above instructions were reiterated in another instructions dated 23.03.1998. The services of the petitioner were regularized w.e.f. 01.05.1998 and later w.e.f. 1995 by virtue of orders dated 26.06.1998. The financial benefits viz. the overtime allowance and bonus as per the existing instructions and rules applicable during the period from 1995 to 30.04.1998. However, after a lapse of about 04 years, notice for recovery of over-time allowance and bonus paid were served on 14.06.2002 to which reply was submitted.

4. Notwithstanding the same the impugned order was passed without considering the legal position.

5. Counsel for the respondent-State is not in a position to dispute that the petitioners belong to Group 'C' services and it was not the case that the petitioners have availed any benefit of overtime allowance and benefits on account of any mis-representation or fraud, hence, in terms of the instructions issued by the respondents and in view of the law laid down by

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the Hon'ble Supreme Court in the matter of "*State of Punjab versus Rafiq Masih*" reported as *2015 (4) SCC 334* and "*Thomas Daniel versus State of Kerala and others*" reported as *2022 AIR (SC) 2153*, the recovery cannot be made.

6. In view of the aforesaid, the present writ petitions are allowed. The impugned order dated 17.01.2003 (Annexure P-5) in CWP-1360-2003 and dated 18.06.2007 (Annexures P-3 and P-4) in CWP-10999-2007 are accordingly set aside.

7. All the pending miscellaneous application(s), if any, are also disposed of.

JULY 03, 2025
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No