



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

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CWP-7874-2021

Date of Decision : 27.11.2025

Resham Singh

.....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. V.K. Shukla, Advocate for the petitioner.

Mr. Satnampreet Singh Chauhan, D.A.G., Punjab.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India, seeking a writ of certiorari, quashing the impugned orders/letters dated 16.08.2019 (Annexure P-1) and 02.03.2021 (Annexure P-2), whereby the petitioner has been directed to refund the excess amount of G.P. Fund after a period of more than five years of his retirement.

2. Learned counsel for the petitioner submits that the petitioner joined the service as Ground Marker/Supervisor in the Department of Sports, Punjab on 13.08.1975, which is a Class-IV (Group-D) post and retired as such, on attaining the age of superannuation, on 31.03.2014. He further submits that as the service record of the petitioner was absolutely clean, no objection of any kind was ever raised by the respondent-department and his pensionary benefits were released well in time. He further submits that after a period of more than

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five years of the retirement of the petitioner, the impugned orders/letters dated 16.08.2019 and 02.03.2021 have been sent to the petitioner seeking recovery from him alleging excess payment of G.P. Fund. He further submits that since at the time of retirement of the petitioner, the respondent-department had made the payment of G.P. Fund to him after preparation of his case and fulfilling all the required performas pertaining to final payment of G.P. Fund, therefore, no question of excess payment arises after five years of his retirement. Even otherwise, the respondent-department cannot make any recovery from the petitioner after five years of his retirement. In support of his contention, learned counsel for the petitioner has placed reliance upon the judgment of Hon'ble Supreme Court passed in ***State of Punjab and others Vs. Rafiq Masih (White Washer) and others : 2015(1) S.C.T. 195.***

3. On the other hand, learned State counsel, while referring to the averments made in the reply filed on behalf of the respondents, submits that there was a mistake committed by the department while determining the pensionary benefits payable to the petitioner and consequently, he was given monetary benefits in excess of his entitlement. Therefore, there is no illegality in the impugned orders/letters dated 16.08.2019 and 02.03.2021 seeking recovery of excess payment of G.P. Fund from the petitioner.

4. I have heard learned counsel for the parties and perused the relevant documents.

5. Admittedly, the petitioner retired from service, on attaining the age of superannuation, on 31.03.2014 and after a period of more



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than five years of his retirement, the impugned orders/letters seeking recovery of excess payment of G.P. Fund from the petitioner was issued by the respondent-department on 16.08.2019 and 02.03.2021. The facts and circumstances of the present case suggests that it was nowhere the case of the respondent-department that there was any fraud or misrepresentation on the part of the petitioner to enure the benefit of fetching excess payment, rather the same was being paid by the respondent-department at its own at the time of releasing the pensionary benefits of the petitioner.

6. The Hon'ble Supreme Court in ***Rafiq Masih's case (supra)*** has laid down circumstances where no recovery can be effected from an employee despite excess payment. The circumstances enumerated in the judgment are not conclusive. The circumstances where the Court has categorically held that no recovery shall be effected are reproduced as 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.”*

7. In view of the above, this Court is of the considered view that the case of the present petitioner, who was working against Class-IV post, is squarely covered by the principles and parameters laid down in Clauses (i) to (iii) and (v) of para 12 of the judgment of Hon’ble Supreme Court passed in *Rafiq Masih’s case (Supra)*.

8. Consequently, the present petition is allowed and the impugned orders/letters dated 16.08.2019 and 02.03.2021 seeking recovery of excess payment of G.P. Fund from the petitioner is set aside.

27.11.2025
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No