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

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**CWP-12824-2022 (O&M)
Date of Decision: 22.07.2025.**

KAMLESH

...Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

...Respondent(s)

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

Present: Mr. Amardeep Singh Sheoran, Advocate,
for the petitioner.

Mr. Ravi Pratap Singh, DAG, Haryana.

VINOD S. BHARDWAJ. J (ORAL).

Challenging the recovery of one year salary of Uday Singh, Forest Guard, deceased husband of the petitioner, from her ordered vide order dated 14.07.2021 (Annexure P-1), the instant writ petition has been filed.

2 Learned counsel appearing on behalf of the petitioner strenuously argues that Uday Singh deceased husband of the petitioner was working as Forest Guard with the respondent Department. He died on 07.08.2012. She was entitled to the salary benefits of the deceased employee

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till his superannuation on 30.09.2020 and hence, an order was passed by the respondents on 01.10.2012. She was to be given salary w.e.f. 07.08.2012 to 30.09.2020 as per the said order. After the same had been disbursed, the respondent authorities passed the impugned order to the effect that the salary was actually to be given only upto 07.08.2019 whereafter the pension was not to be disbursed to her. The order dated 14.07.2021 was accordingly passed directing recovery of the excess payment made to the petitioner from 08.08.2019 to 30.09.2020.

3 Learned counsel contends that there was no misrepresentation or fraud committed by the petitioner and that the recovery from her would be barred in view of the judgment of the Hon'ble Supreme Court passed in the matter of **State of Punjab and others Vs. Rafiq Masih (Whitewasher), reported as (2015) 4 SCC 334** which has been adopted by the respondent State by issuing instructions bearing No.1/23/2010-2PR(FD) dated 20.01.2017.

4 Learned counsel for the respondent-State contends that the respondent-Department had released the said benefits erroneously and that the petitioner was not entitled to retain the said financial benefits and that it would be within its right to recover such an excess payment made in the light of the undertaking submitted by her on 09.02.2021.

5 However, he does not dispute that the aforesaid judgment does not carve out any exception for such or similar circumstances or argue about the non-applicability of the instructions dated 20.01.2017. There is also no reference to any modification of the said instructions.

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6 Consequently, the action of the respondent in ordering recovery of the excess payment made is prima facie in violation of the judgment of the Hon'ble Supreme Court in the matter of **Rafiq Masih (Whitewasher)** (supra) as also the instructions issued by the Additional Chief Secretary to the Government of Haryana in the Department of Finance as well.

7 The instant writ petition is thus allowed. The impugned order dated 14.07.2021 (Annexure P-1) ordering recovery of extra salary paid with respect to the period from 08.08.2019 to 30.09.2020 from the petitioner is set aside.

8 Since the main writ petition itself has been allowed, misc. application (CM-14976-CWP-2022) filed by the respondent-State seeking vacation of the interim order dated 02.06.2022 staying recovery, shall also stand(s) disposed of accordingly.

July 22, 2025
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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