



CWP-15211-2022

-1-

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

201

CWP-15211-2022

Date of Decision: 12.09.2025

Kamla Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Ms. Surinder Kaur, Advocate for the petitioner
Mr. Suneel Ranga, Deputy Advocate General, Haryana
Ms. Rahish Pahwa, Advocate for respondent No.5

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order/letter dated 27.08.2019 and 19.09.2019 whereby her pension has been ordered to be deducted.

2. On 18.07.2022, this Court passed the following order: -

“Learned counsel for the petitioner argues that the recovery from the pension is being made by the respondents on the ground that pension of the petitioner was wrongly fixed by the respondents and the petitioner has been extended the pension beyond his entitlement, which excess payment needs to be recovered from the petitioner.

Learned counsel argues that keeping in view the settled principle of law settled by the Supreme Court in State of Punjab Vs. Raqif Masih, 2015(1) S. C. T. 195, no recovery can be made from the retired employee and that too without any opportunity of hearing.



CWP-15211-2022

-2-

Notice of motion for 16.11.2022.

Further recovery from the petitioner shall remain stayed till the next date of hearing.”

3. Learned counsel for respondent No.5 expressed her inability to controvert that excess payment was made from July’ 2008 to 2019 and there was no connivance, misrepresentation, fraud or mischief on the part of the petitioner. She further submits that it was lapse of the system which was introduced in 2006.

4. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

5. Hon’ble Supreme Court in ***State of Punjab and others v. Rafiq Masih (White Washer) and others (2015) 4 SCC 334*** 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: -

“18. 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 hereinabove, 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 the 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.”*

6. This Court while adverting to identical issue vide order dated 15.03.2024 passed in ***CWP No.12431 of 2022, Shivani Joshi v. State Bank of India and another*** has held: -

“10. This Court every day is getting similar cases where there is excess payment on account of mistake on the part of bank. The employer i.e. Union of India or State Government is not at fault whereas it is bank who is at fault and claiming that excess payment has been made on account of its mistake. There is no case wherein it has been found that mistake was on the part of employee. In every case, there is mistake on the part of bank. The bank has initiated recovery even from the widow. It ill behoves the banks.”



7. In the case in hand, the excess payment was made during 2008 to 2019. The petitioner is a widow and she is getting family pension. Her case is squarely covered by afore-cited judgment.

8. In the backdrop, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The respondent-bank shall not effect further recovery.

(JAGMOHAN BANSAL)
JUDGE

12.09.2025
Mohit Kumar

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