



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

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CWP-19017-2020(O&M)
Date of decision: 08.01.2025

Lachhman Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Padamkant Dwivedi, Advocate for the petitioner.

Mr. Arun Gupta, DAG, Punjab.

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for quashing the order dated 06.02.2019, Annexure P-3, vide which the recovery of amount of Rs.1,91,284/- had been effected from the leave encashment of the petitioner, who was working as Junior Assistant/DPA, Class-III and had retired on attaining the age of superannuation on 30.09.2018. The amount was recovered on account of one increment having been granted to him erroneously in the year 2006, regarding which neither any show cause notice nor opportunity of being heard was granted to him prior to the issuance of the impugned order.

2. Hon'ble the Supreme Court in **Sahib Ram vs. State of Haryana**¹, had observed that recovery could not be made in a case where there is no allegation of any misrepresentation on part of the employee, who



received the benefit and while reiterating the same in **State of Punjab vs.**

Rafiq Masih², had observed and held thus:

“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 the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the 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.”

3. Learned counsel, while pressing the claim on instructions from the petitioner, only as regards recovery states that he is entitled to interest on the retiral benefits after 3 months from the date of his superannuation. In response whereof learned State counsel submits that the same shall be payable only from April 2019 as he himself completed the documents for pension on 10.01.2019 and the said period be taken therefrom, which learned counsel for the petitioner stated to be acceptable.



4. In wake of the facts and circumstances of the case, the impugned order dated 06.02.2019 is set aside and the respondents are directed to pay the interest at the rate of 6% per annum on amount of Rs.1,91,284/- from the date it fell due and that on retiral benefits from April 2019 till their respective realisations. Needful be done within a period of three months.

5. Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

08.01.2025

Hemant

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