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

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Date of decision: 27.01.2025

CWP-6407-2020
Rajpreet Singh and Others vs. State of Punjab and Others

CWP-13118-2020
Raj Kumar Verma and Others. vs. State of Punjab and Others

CWP-19312-2020
Jagmail Singh and Others vs. State of Punjab and Others

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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Present : Mr. V.K. Sandhir, Advocate for the petitioners

Mr. Amarpreet Singh Bains, AAG Punjab

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AMAN CHAUDHARY, J. (ORAL)

1. These cases involve similar issues and therefore, are being disposed of together by this common judgment.

2. The prayer made in the present petitions is for setting aside the impugned orders, vide which the recovery has been effected on fixation of pay anomaly, on basis of orders passed by this Court on 04.11.2016, 29.05.2016 and 25.08.2015, Annexure P-1.

3. Learned counsel, on instructions from the petitioners, who were working on Class-III posts, restricts their prayer to only recovery to be not effected in wake of fact that there was neither any mis-representation nor fraud and the pay fixation had been carried out, in pursuance of the judgment in **Rewail Singh etc. vs. State of Punjab**, CWP-17005-1989, decided on 01.03.1995.

4. Learned counsel relies on the policy/instructions dated 20.01.2017, wherein it has been provided that recovery of excess amount paid to Class-III and

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Class-IV employee, may not be made as also held in **Krishan Kumar Singla vs. State of Punjab and Others**, CWP-11341-2003, decided on 20.09.2010, SLP against which was dismissed on 05.12.2014, the relevant paras whereof read thus:

> "5. The following needs to be extracted from Budh Ram's case (supra), for consideration of the issue raised in this petition :
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> "It is in the light of the above pronouncement. no longer open to the authorities granting the benefits, no matter erroneously, to contend that even when the employee concerned was not at fault and was not in any way responsible for the mistake committed by the authorities they are entitled to recover the benefit that has been received by the employee on the basis of any such erroneous grant. We say so primarily because if the employee is not responsible for the erroneous grant of benefit to him/her, it would induce in him the belief that the same was indeed due and payable. Acting on that belief the employee would, as any other person placed in his position arrange his affairs accordingly which he may not have done if he had known that the benefit being granted to him is likely to be withdrawn at any subsequent point of time on what may be then said to be the correct interpretation and application of rules. Having induced that belief in the employee and made him change his position and arrange his affairs in a manner that he would not otherwise have done, it would be unfair, inequitable and harsh for the Government to direct recovery of the excess amount simply because on a true and correct interpretation of the rules, such a benefit was not due. It does not require much imagination to say that additional monetary benefits going to an employee may not always result in accumulation of his resources and savings. Such a benefit may often be utilized on smaller luxuries of life which the employee and his family may not have been able to afford had the benefit not been extended to him. The employees can well argue that if it was known to them that the additional benefit is only temporary and would be recovered back from them, they would not have committed themselves to any additional expenditure in their daily affairs and would have cut their coat according to their cloth. We have, therefore, no hesitation in holding that in case the employees who are recipient of the benefits extended to them on an erroneous interpretation or application of any rule, regulation, circular and instructions have not in any way contributed to such erroneous interpretation nor have they committed any fraud, misrepresentation, deception

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> to obtain the grant of such benefit, the benefit so extended may be stopped for the future, but the amount already paid to the employees cannot be recovered from them."
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> 6. In view of the above, this petition is allowed in terms of Budh Ram & Others vs. State of Haryana & Others (Civil Writ Petition No.2799 of 2008, decided on 22.5.2009) reported as 2009(3) PLR 511. Accordingly, it is directed that respondents would have no right to effect recovery from the petitioner. In the meantime, in the interregnum period if any recovery has been effected, the amount shall be refunded to the petitioner within four months of receipt of a certified copy of this order. The action of the respondents in regard refixation of pay, however, is maintained."

5. A gainful reference can be made to the judgment in **Thomas Daniel vs. State of Kerala**[1], wherein by relying on **Sahib Ram vs. State of Haryana**[2] and **State of Punjab vs. Rafiq Masih**[3], Hon'ble the Supreme Court held that generally, the recovery of amounts paid in excess are impermissible to be affected.

6. Learned State counsel despite best efforts has been unable to controvert regards the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

7. In view of the aforesaid, the present petitions are disposed of in terms of **Krishan Kumar Singla** (supra).

8. Photocopy of this order be placed on the connected files.

(AMAN CHAUDHARY)
JUDGE

27.01.2025
M.Kamra

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

[1] 2022 SCC OnLine SC 536
[2] 1995 Supp (1) SCC 18
[3] (2015) 4 SCC 334

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