



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

CWP-22039-2024

Date of decision: 12.11.2025

Mahipal and others

....Petitioners

Versus

Dakshin Haryana Bijli Vitran Nigam and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Lajpat Rai Sharma, Advocate
for the petitioners.

Mr. Padamkant Dwivedi, Advocate
for the respondents.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned inaction of the respondents.

2. Learned counsel for the petitioners *inter alia* contends that petitioners No.1 to 3 retired on 30.04.2022, 31.10.2020 and 28.02.2022, respectively. After the superannuation of the petitioners, the respondents released the retiral benefits of the petitioners. The respondent-Department has wrongly recovered the amount of Rs.1,78,551/- from the leave encashment of petitioner No.1 and similar amount was recovered from petitioners No.2 and 3. Before effecting recoveries no notice was issued to the petitioners. It is not a case that any excess payment was made on the representation made by the petitioners. As such, the case of the petitioners is squarely covered by the judgment rendered by the Hon'ble Supreme Court in 'State of Punjab and others Vs. Rafiq Masih (White Washer) and others' 2015 (4) SCC 334. He



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further submits that identically circumstanced co-employees approached this Court by way of filing CWP No.14748 of 2022 titled as 'Randhir Singh and another Vs. Dakshin Haryana Bijli Vitran Nigam Ltd. and others' which was decided on 31.01.2024 (Annexure P-5). The recovery was effected from these employees on the same ground of granting increments. When the increments were granted, there was no misstatement or concealment of fact by the petitioners.

3. Per contra, learned counsel for the respondents-Nigam has issued a notice to the petitioners before effecting the recoveries. However, he could not controvert the fact that the case of the petitioners is identical to Randhir Singh's case.

4. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

5. In view of the aforesaid facts and circumstances of the case, the issue with regard to recovery from the retired employees has been authoritatively settled by the Hon'ble Supreme Court in **Rafiq Masih's case** (*supra*) speaking through Justice Jagdish Singh Khehar has observed as follows:

"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." (Emphasis supplied)

6. In view of the admitted facts, the present petition is allowed and the respondents are directed to refund the amount recovered from the petitioners along with interest @ 6% per annum within a period of three months from the date of receipt of certified copy of this order.

(HARPREET SINGH BRAR)
JUDGE

12.11.2025

Neha

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