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

CWP-23176-2024

Date of decision: 12.09.2025

Prithavi Raj

....Petitioner

Versus

Uttar Harayan Bijli Vitran Nigam and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Naveen Daryal, Advocate
for the petitioner.Mr. Prateek Mahajan, Advocate and
Mr. Daanish Mahajan, 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 order dated 12.05.2016 (Annexure P-2) and order dated 02.06.2016 (Annexure P-3) passed by the respondents.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner joined as daily wager on 01.11.1978. Thereafter, he was regularized on 01.01.1987. The work and conduct of the petitioner remains good throughout the service tenure and he has earned promotions on account of his satisfactory service. However, at the time of retirement of the petitioner, the gratuity of the petitioner was released and retiral dues to the tune of Rs.58,804/- were withheld. Thereafter, the petitioner made several representations. The act and conduct of the respondents in withholding the retiral dues is contrary to the no dues certificate of the petitioner at the time of his retirement. He further



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submits that the petitioner has never been communicated with the order regarding the impugned recovery from his gratuity and disciplinary proceedings was never initiated against the petitioner in terms of Rule 2.2 (b) of the Punjab Civil Services Rules.

3. Per contra, learned counsel for the respondents submits that a show cause notice was issued to the petitioner and a minor punishment was awarded after issuing a show cause notice on 06.01.2017 as discernible from Annexure R-1 attached with the written statement filed on behalf of the respondents-Corporation. The petitioner has returned the missing parts to the tune of Rs.39,386/- and a balance amount of Rs.19,418/- is still recoverable from the petitioner and the amount of Rs.39,386/- was paid to the petitioner on 29.11.2024 (Annexure R-2) during the pendency of the present petition.

4. Having heard learned counsel for the parties and after perusal of the record, it transpires that the respondents have withheld a balance amount of Rs.19,418/- from the gratuity of the petitioner and payment of Rs.39,386/- was paid to the petitioner on 29.11.2024 (Annexure R-2). The order of punishment can only be imposed after departmental inquiry by following the procedure prescribed therein. The issue with regard to recovery of the excess payment made to an employee is no longer *res integra*.

5. Reliance may be placed upon law laid down by the Hon'ble Supreme Court in '**State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.**' (2015) 4 SCC 334 which made the following observations:-

'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.'

6. In view of the discussion above, the present petition is disposed of and the impugned orders dated 12.05.2016 and 02.06.2016 (Annexures P-2 & P-3, respectively) are hereby set aside and the respondents are directed to release the excess amount of Rs.19,418/- along with interest @ 6% per annum in favour of the petitioner from the date of filing of the present petition within a period of three months from the date of receipt of certified copy of this Court.

(HARPREET SINGH BRAR)
JUDGE

12.09.2025

Neha

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