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

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Date of Decision :08.08.2025

Union of India and others

...Petitioners

Versus

Ved Parkash and another

..Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Anil Kumar Sharma, Senior Panel Counsel
for the petitioners-UOI.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the order dated 27.05.2025 (Annexure P/1) passed by the Central Administrative Tribunal, Chandigarh (for short, 'Tribunal') where the original application filed by respondent No.1 has been allowed and petitioners were directed to refund the excess amount to the tune of Rs.1,27,800/- which was recovered along with interest @ GPF on the ground that same is in complete contravention with Rule 67 & 69 of Central Civil Service (Pension) Rules and is perverse.

2. Learned counsel for the petitioners-UOI submits that though the recovery which was sought to be done from the respondent No.1 has been held to be bad by the Tribunal vide order dated 27.05.2025 (Annexure P/1) on the basis of the judgment of the Hon'ble Supreme of the India in **State of Punjab and others Vs. Rafiq Masih (White Washer) etc., 2015(1) S.C.T., 195** but, the Tribunal has failed to take note of the judgment of the Hon'ble



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Supreme Court of India in **Civil Appeal No.3500-2006 titled as, High Court of Punjab and Haryana and others vs. Jagdev Singh decided on 29.07.2016** according to which, in case, there is an undertaking given by an employee, recovery of excess payment can be effected.

3. Learned counsel for the petitioners-UIO argues that setting aside of the recovery on the basis of the judgment in the case of **Rafiq Masih (supra)** by ignoring the judgment in the case of **Jagdev Singh (supra)** by the Tribunal, is incorrect as in the present case, there was an undertaking given by the respondent No.1-employee to the effect that in case his pay was wrongly fixed, recovery can be made from him.

4. We have heard learned counsel for the petitioners and have gone through the record with his able assistance.

5. It may be noticed that though, the impugned order dated 27.05.2025 (Annexure P/1) has been passed by the Tribunal qua the recovery to the tune of Rs.1,27,800/- but nothing has been mentioned as to whether refixation of the salary of the respondent No.1-employee was done in accordance with law or not. As per the learned counsel for the petitioners-UIO, the recovery was done vide letter dated 30.12.2022 unilaterally.

6. Learned counsel for the petitioners has not been able to prove that show cause notice was given to the respondent No.1-employee before refixing the salary of the respondent No.1 and directing recovery of excess amount especially when respondent No.1 had already retired from service before refixation of his salary.

7. As per the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.9417-2019** titled as **M/s**



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Daffodils Pharmaceuticals Ltd. and another vs. State of U.P. and another

decided on 13.12.2019 and **Chamoli District Co-operative Bank Ltd through its Secretary/Mahaprandhak and another vs. Raghunath Singh Rana and others**, 2016(12) SCC 204, any order causing prejudice to an employee is to be passed after following rules of natural justice and proposed action has to be informed to the employee concerned and objections are to be invited and, thereafter, keeping in view the objections raised, appropriate order is to be passed. Relevant paragraphs of the judgment in **M/s Daffodils Pharmaceuticals Ltd** are as under:-

“15. In the present case, even if one assumes that Surender Chaudhary, the accused in the pending criminal case was involved and had sought to indulge in objectionable activities, that ipso facto could not have resulted in unilateral action of the kind which the State resorted to- against Daffodils, which was never granted any opportunity of hearing or a chance to represent against the impugned order. If there is one constant lodestar that lights the judicial horizon in this country, it is this: that no one can be inflicted with an adverse order, without being afforded a minimum opportunity of hearing, and prior intimation of such a move. This principle is too well entrenched in the legal ethos of this country to be ignored, as the state did, in this case.

16. The High Court, in the opinion of this court, fell into error in holding that in matters of award of public contracts, the scope of inquiry in judicial review is limited. Granted, such jurisdiction is extremely circumscribed; no doubt the court had refused to grant relief to Daffodils against its plea of wrongful rejection of its tender. However, what the impugned judgment clearly overlooks is that the action of the state, not to procure indefinitely, on an assumption of complicity by Daffodils, was in flagrant violation of principles of natural justice.”

8. Relevant paragraph of the judgment in **Chamoli District Co-operative Bank Ltd** is as under:-

19. The compliance of natural justice in domestic/disciplinary inquiry is necessary has long been established. This Court has held that even there are no specific statutory rule requiring observance of natural justice, the compliance of natural justice is necessary. Certain ingredients have been held to be constituting integral part of holding of an inquiry. The Apex Court in [Sur Enamel and Stamping Works Pvt. Ltd. v. Their](#)

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Workmen reported in (1964) 3 SCR 616 has laid down following:-

“... An enquiry cannot be said to have been properly held unless, (i) the employee proceeded against has been informed clearly of the charges levelled against him, (ii) the witnesses are examined – ordinarily in the presence of the employee – in respect of the charges, (iii) the employee is given a fair opportunity to cross-examine witnesses, (iv) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter, and (v) the inquiry officer records his findings with reasons for the same in his report.”

9. Concededly, in the present case, no opportunity of hearing was afforded to respondent No.1-employee and hence, even the re-fixation of the salary in pursuance to which the recovery was being sought to be done, cannot be sustained in the eyes of law.

10. Faced with this situation, learned counsel for the petitioners-UOI submits that a liberty be given to the petitioners-UOI to issue a show cause notice to the respondent No.1-employee and thereafter, decide whether the pay of the respondent No.1-employee is to be re-fixed or the recovery is to be done from him keeping in view the settled principle of law or not.

11. Keeping in view the above, order/letter dated 30.12.2022 issued by the authority concerned is set aside. However, a liberty is granted to the petitioners that in case, the petitioners intend to re-fix the salary of the respondent No.1-employee or effecting recovery from him, proper procedure as envisaged under law is to be adopted.

12. It will be in the interest of justice, in case, respondent No.1-employee be also heard before passing any order as he has already retired from service as of now.

13. It may be noticed that any recovery which has already been done from the respondent No.1-employee on the basis of the impugned

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order/letter dated 30.12.2022 will be refunded back to the respondent No.1-employee within a period of 08 weeks from the date of receipt of copy of this order. However, the same will be subject to any fresh order to be passed by the petitioners.

14. Present petition is disposed of in above terms.

15. Civil miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

August 08, 2025
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(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No