



CWP-38039-2018

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

CWP-38039-2018

Date of decision:20.02.2025

TARSEM SINGH**..Petitioner****Versus****STATE OF PUNJAB AND ORS.****..Respondents****CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY***********

Present : Mr. N.P.S. Mann, Advocate for the petitioner.

Mr. Vikram Jeet Singh, Advocate
for the respondent No.5.

Ms. Shruti, AAG Punjab.

***********AMAN CHAUDHARY, J. (ORAL)**

1. The prayer made in the present petition is for quashing the order dated 20.07.2018, wherein recovery of the amount of grade pay has been ordered to be recovered from the petitioner.

2. This Court had ordered dated 21.12.2018 stayed the recovery from the petitioner, in view of the law laid down in the judgment in the case of **State of Punjab and others Vs. Rafiq Masih etc.** 2015 (4) SCC 334. Petitioner who was working as Junior Assistant retired on 31.03.2012, however, on 30.03.2015 was issued a letter by the respondent-department stating that the grade pay of Rs.3000/- has been wrongly granted instead of Rs.2800/- and accordingly after two years vide letter dated 23.08.2017, respondent No.5, Executive Officer, Panchayat Samiti sought to recover Rs.83,296/- on account of wrong calculation of pay benefits. Reliance is



placed on the judgment of this Court in **Kailash Chander Sharma vs. State of Haryana and others**, 2015 (2) SCT 130 and held that against which no challenge has been made, this Court held the petitioner therein entitled to consequential benefit of actual arrears of salary/wages since the disciplinary proceedings were dropped, by observing that, “Under such circumstances and by applying the dictum laid down by the Hon'ble Supreme Court in *State of Haryana v. OP Gupta*, *State of Kerala and others v. E.K. Bhaskaran Pillai* and *The Commissioner, Karnataka Housing Board v. C. Muddaiah* (supra), the petitioner cannot be denied the consequential benefit of actual arrears/salary for the period in question. It is not the case where the petitioner had declined to work on the promoted post, rather he was denied the opportunity to occupy the promotional posts on account of pendency of departmental proceedings and which were also dragged and delayed for no fault of his. The principle of 'no work no pay' would have no applicability in the peculiar facts and circumstances of the present case.”

3. 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 effected.

4. Learned counsel states that the letter dated 16.12.2019, Annexure R-2/T being pressed into service against the petitioner wherein he was constrained to submit pension case, which is still pending in the office

¹ 2022 SCC OnLine SC 536

² 1995 Supp (1) SCC 18

³ (2015) 4 SCC 334



cannot be taken against him as he being a retired employee had no other source of income.

5. 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.

6. The petition is disposed of in terms of **Kailash Chander Sharma** (supra).

(AMAN CHAUDHARY)
JUDGE

20.02.2025
poonam

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