



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
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CWP-30677-2024 (O&M)
Date of decision: 18.11.2025

Anil Kumar Aggarwal
.....Petitioner
Versus
Punjab State Power Corporation Limited and another
.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Inderjit Sharma, Advocate
with Mr. Prem Nath, Advocate
for the petitioner.

Mr. Baltej Pal Singh Walia, Advocate
and Mr. Harsh Suhalia, Advocate
for the respondents.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the impugned Memo/Notice No.6445 dated 14.08.2024 (Annexure P-1) and Memo No.8041 dated 21.10.2024 (Annexure P-3) issued by respondent No.2 whereby illegal demand of recovery of Rs.2,91,323/- have been raised wrongly from the petitioner due to wrong fixation of pension in the year 2006. Further a writ of prohibition has been sought for restraining the respondents to not effect any recovery from the monthly pensionary benefits of the petitioner on the basis of impugned Memo/Notices No.6445 dated 14.08.2024 (Annexure P-1) and Memo No.8041 dated 21.10.2024 (Annexure P-3),



respectively, till the final adjudication of the writ petition. Another prayer has been made to stay the operation of impugned Memo/Notice No.6445 dated 14.08.2024 (Annexure P-1) and Memo No.8041 dated 21.10.2024 (Annexure P-3) during the pendency of the writ petition.

2. Learned counsel for the petitioner, inter alia, contends that the petitioner retired from service in the year 2004 and now after a period of 20 years, the respondents are contemplating recovery from the petitioner on account of alleged wrong fixation of pension w.e.f. 01.01.2006. Moreover, it is not a case that there was any fraud, misrepresentation or concealment on the part of the petitioner which led to wrong fixation of pension. He further submits that the case of the petitioner is squarely covered by judgment rendered by the Hon'ble Supreme Court in *State of Punjab vs Rafiq Masih, 2015(1) SCT 195* and this Court in *CWP-27459-2017*, titled as *Naib Singh vs State of Punjab and others*, decided on 16.04.2024.

3. In the instant writ petition, this Court has issued notice of motion on 14.11.2024, and also stayed the recovery from the petitioner. Learned counsel for the respondents accepted notice on behalf of the respondents on 14.11.2024 and sought time to file written statement. Thereafter, another opportunity was sought by learned counsel for the respondents to file written statement on 28.02.2025, however, till date the written statement has not been filed and today again, learned counsel for the respondents is seeking more time to file written statement.



4. In view of the short controversy involved in the instant writ petition, the prayer made by learned counsel for the respondents seeking more time to file written statement is declined and the writ petition is being decided without granting any further time to the respondents.

5. *Per contra*, learned counsel for the respondents has failed to submit any plausible explanation as to how the case of the petitioner is not covered by ***Rafiq Masih's case (supra)*** and ***Naib Singh's case (supra)***.

6. It is not in dispute that the petitioner is a pensioner and no material has been brought on record by the respondent/Corporation to show that any fraud or misrepresentation was committed by the petitioner while receiving the pension. On the contrary, the explanation furnished is that excess pension payment was made to the petitioner, which is an administrative lapse. In that eventuality, the petitioner cannot be blamed as he has not mislead the respondent/Corporation in order to secure higher amount of pension. The Hon'ble Supreme Court in ***Rafiq Masih's case (supra)*** has clearly held that recovery from retired employees or their family pensioners especially when there is no fraud or misrepresentation, is impermissible in law. The relevant extract of the said judgment, reads 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.

7. Reliance in this regard can be placed on the judgments of the Hon'ble Supreme Court in ***Jagdish Prasad Singh v. State of Bihar*** **2024 AIR Supreme Court 3950** and ***Thomas Daniel v. State of Kerala*** **2022 SCC OnLine SC 536** and the judgment rendered by this Court in **CWP-32661-2024**, titled as ***Sajjan Kumar Goyal vs State of Haryana and others***, decided on **04.11.2025**.

8. The legal framework governing the recovery of excess payments made to a public servant is fundamentally rooted in the principles of equity and judicial discretion, rather than in conferring any absolute right upon the employee. The primary objective of this



discretionary relief is to shield the employees, particularly those in the lower echelons of service, from the crippling hardship that would ensue from recovering amounts already spent with a *bona fide* belief that they were legitimately entitled for them.

9. In view of the above facts and circumstances, the present writ petition is allowed in terms of ***Rafiq Masih's case (supra)***. The impugned Memo/Notice No.6445 dated 14.08.2024 (Annexure P-1) and Memo No.8041 dated 21.10.2024 (Annexure P-3) are hereby set-aside. The respondents are directed to refund the amount if already recovered from the petitioner from the date of recovery till its actual realization, along with interest at the rate @ 6% per annum, within a period of three months from the date of receipt of a certified copy of this order.
10. Pending miscellaneous application, if any, also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

18.11.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No