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

**263** **CWP-32663-2024**
**Date of Decision:02.12.2025**

**SAJJAN KUMAR GOYAL**

**...Petitioner**

**Versus**

**STATE OF HARYANA AND OTHERS**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Raman B. Garg, Advocate with
Mr. Mayank Garg, Advocate
Mr. Navdeep Singh, Advocate and
Mr. Chetan Juneja, Advocate
for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Sayyam Garg, Advocate for
Mr. Himanshu Bindal, Advocate
for respondent No.3.

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**HARPREET SINGH BRAR, J. (ORAL)**

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of mandamus directing the respondents to refund the amount of ₹2,20,571/- deducted from the Provident Fund of the petitioner along with interest @ 12% per annum.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was appointed as an Executive Officer on 04.11.1981 in a Municipality of the State of Haryana and after rendering 34 years of

unblemished service retired on 29.02.2016. Thereafter, on 08.08.2016, the petitioner received a letter from respondent No.3 intimating him that a sum of ₹2,20,571/- had been deducted from his Provident Fund account. The impugned recovery was made unilaterally by respondent No.3 without issuance of any notice to the petitioner, in violation of the principles of natural justice. Learned counsel further refers to a letter dated 18.07.2016 (Annexure P-2) issued by respondent No.2 directing respondent No.3 to recover the aforesaid amount. A perusal of Annexure P-2 clearly indicates that the amount recovered pertains to the employer's share for the period up to April 1993. It is only due to the administrative lapse committed by the concerned employer that the employer's contribution could not be deposited out of the Municipal Fund by different Municipalities where the petitioner had been serving under the orders of respondent No.2 from time to time. Furthermore, no direction was issued in the letter dated 18.07.2016 (Annexure P-2) for effecting recovery from the pension fund of the petitioner, which was constituted under Section 56 of the Haryana Municipal Act, 1973.

3. Learned counsel for the petitioner further submits that recovery post-retirement, in the absence of any fraud or misrepresentation, is not permissible in view of the authoritative pronouncement of the Hon'ble Apex Court in Civil Appeal No. 11527 of 2014, titled as **State of Punjab and others vs. Rafiq Masih**.

4. Per contra, learned counsel for respondent No.3 refers to the written statement and submits that the recovery was made in terms of the letter dated 18.07.2016 issued by respondent No.2 and that the amount in

question has been deducted from the Provident Fund account of the petitioner under Section 6(1) of the 1993 Rules. As such, the impugned action is based upon the order passed by respondent No.2 in accordance with the applicable Rules. It is further submitted that the petitioner retired from the Municipal Council, Kaithal and it was his duty to ensure the transfer of his share of the CPF to his pension account.

5. Learned State counsel submits that the impugned recovery was made in the year 2016, however, the writ petition has been filed only in the year 2024. As such, the writ petition is liable to be dismissed on the ground of delay and laches.

6. Having heard learned counsel for the parties and after perusal of the record with their able assistance, it transpires that the petitioner has raised a specific ground in paragraph 4, stating that the impugned recovery was made on account of an administrative lapse committed by the employer, as the employees' contribution prior to April 1993 was not transferred by the concerned Municipality to the Provident Fund account of the petitioner, to which no rebuttal was raised by the learned counsel for the respondent. Further, the petitioner has been diligent in making representations to the respondents, and even respondent No.3 sought guidance from respondent No.2 on whether the amount should be paid from the Council fund instead of being withdrawn from the petitioner's Provident Fund account. The petitioner made further representations on 08.12.2018 (Annexure P-7), sought a refund by representation dated 15.03.2021 (Annexure P-9) and 17.11.2023 (Annexure P-11), following which he served a legal notice on 23.07.2024 (Annexure P-13). Learned counsel for the respondent was not in

a position to controvert the fact that the petitioner consistently pursued the issue by making representations to the respondent.

7. The deduction from the Provident Fund was made without observance of the principles of natural justice and it is well-settled law that any order having civil consequences must be passed after affording a hearing opportunity to the affected party. Further, the delay of 23 years in making the deduction, without recording any reasons is wholly unjustified.

8. In the wake of the above discussion and findings, this Court is of the considered opinion that the present petition deserves to be allowed with a direction to the respondents to refund amount of ₹2,20,571/- recovered unilaterally from the Provident Fund account of the petitioner along with interest @ 6% per annum to be calculated from the date of its recovery till its actual realization and the same shall be done within a period of three months from the date of receipt of a certified copy of this order.

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

**(HARPREET SINGH BRAR)**
**JUDGE**

**02.12.2025**
P.Bhatt

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| *Whether speaking/reasoned* | *Yes/No* |
| *Whether Reportable* | *Yes/No* |