2025:PHHC:177776

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

121+122+123+124

Date of decision: 23.12.2025

1. CWP-37735-2025 (O&M)

Satish Kumar

....Petitioner

Versus

The Registrar Cooperative Societies, Panchkula and others

....Respondents

2. CWP-37736-2025 (O&M)

Ashok Kumar

....Petitioner

Versus

The Registrar Cooperative Societies, Panchkula and others

....Respondents

3. CWP-37765-2025 (O&M)

Khalid Hussain

....Petitioner

Versus

The Registrar Cooperative Societies, Panchkula and others

....Respondents

4. CWP-37768-2025 (O&M)

Ravi Singh

....Petitioner

Versus

The Registrar Cooperative Societies, Panchkula and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Dharamveer Phour, Advocate
for the petitioner(s) in all the cases.

Mr. Vikrant Pamboo, Addl. A.G., Haryana in all the cases.

Mr. R.S. Panghal, Advocate
for respondents No.2 and 3 in all the cases.

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CWP Nos.37735, 37736, 37765 and 37768 of 2025, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CWP-37735 of 2025.

2. Prayer in the writ petition (CWP-37735 of 2025) filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the letter of recovery of gratuity of amount of Rs.1,99,808/- dated 19.08.2025 (Annexure P-1) and letter dated 29.10.2025 (Annexure P-2) passed by respondent No.3, vide which respondent No.3 ordered to recover the excessive gratuity amount without any misrepresentation or fault on the part of petitioner. Further prayer has been made to restrain the respondents from effecting the recovery and staying the operation of the impugned orders during the pendency of the petition.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner superannuated from the service of respondent No.3/Bank as Daftari on 30.06.2024. To the utter surprise of the petitioner, after his retirement, respondent No.3 issued a letter dated 19.08.2025 (Annexure P-1) for depositing the amount of Rs.1,99,808/- in lieu of excess payment of gratuity amount, followed by a reminder dated 29.10.2025 (Annexure P-2). Learned counsel for the petitioner further submits that

there was no allegation of any fraud or misrepresentation on the part of the petitioner for the excess payment. It is also highlighted that the Bank's own Resolution No. 10 dated 07.03.2025 (Annexure P-3) had enhanced the gratuity ceiling to Rs.25.00 lacs w.e.f. 01.01.2024. Reliance is placed on the fact that a co-employee's identical matter has been recently allowed by this Court vide order dated **12.12.2025** passed in **CWP No.37255 of 2025,** titled as ***Dharamvir Singh vs State of Punjab and others***.

4. Learned counsel for the petitioner further submits that the present case is squarely covered by the judgement rendered by the Hon'ble Supreme Court in the case of ***State of Punjab vs Rafiq Masih, 2015(1) SCT 195*** and the impugned recovery is in direct violation of the principles laid down by the Hon'ble Apex Court. Reliance is also placed on the judgements of the Hon'ble Supreme Court in ***Jagdish Prasad Singh vs State of Bihar, 2024 AIR Supreme Court 3950*** and ***Thomas Daniel vs State of Kerala, 2022 SCC OnLine SC 536***.

5. *Per contra*, learned counsel for respondents No.2 and 3 is not in a position to controvert the fact that there is no fraud or misrepresentation on the part of the petitioner in receiving the alleged excess amount and the case of the petitioner is squarely covered by the judgments relied upon by the learned counsel for the petitioner.

6. I have heard learned counsel for the parties and perused the record with their able assistance. It transpires that the petitioner retired on 30.06.2024 and after a period of one and a half month, respondent

No.3 issued a letter dated 19.08.2025 (Annexure P-1) for depositing the amount of Rs.1,99,808/- in lieu of excess payment of gratuity amount, followed by a reminder dated 29.10.2025 (Annexure P-2) despite there being no fault on the part of the petitioner.

7. The question regarding recovery of excess payment is well settled by the Hon'ble Supreme Court in ***Rafiq Masih's case (supra)***, and the relevant extract therefrom 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.

8. Further in Thomas Daniel’s case (supra), a two-Judge Bench of the Hon'ble Supreme Court speaking through Justice S. Abdul Nazeer, observed that no recovery of the excess amount paid to an employee can be effected especially when there was no misrepresentation on the part of the employee concerned. Relevant paragraph of the said judgment is reproduced as under:-

9. This Court in a catena of decisions has consistently held that if the excess amount was not paid on account of any misrepresentation or fraud of the employee or if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order which is subsequently found to be erroneous, such excess payment of emoluments or allowances are not_recoverable. This relief against the recovery is granted not because of any right of the employees but in equity, exercising judicial discretion to provide relief to the employees from the hardship that will be caused if the recovery is ordered. This Court has further held that if in a given case, it is proved that an employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, the courts may on the facts and circumstances *of any particular case order for recovery of amount paid in excess.*

(Emphasis supplied)

9. Accordingly, this Court is of the considered opinion that arbitrary or un-communicated recoveries contradict the spirit of a welfare administration and demonstrate a lack of humane consideration. Overall, the effect of such abrupt recovery extends beyond administrative error; it reflects on the sensitivity, fairness, and accountability of governance itself. Therefore, even where legal remedies exist, administrative prudence demands that any recovery from pension be preceded by due notice, consultation, and empathetic handling consistent with the dignity of the retired employee.

10. In view of the aforesaid discussions, this Court has no hesitation in holding that the impugned recovery of gratuity from the petitioner(s), who are retired employees, in the absence of any allegation of fraud or misrepresentation on their part, is wholly impermissible in law and is squarely hit by the principles laid down by the Hon'ble Supreme Court in ***Rafiq Masih's case (supra)*** which is reiterated in ***Thomas Daniel's case (supra)***.

11. Consequently, all the captioned writ petitions are allowed and the impugned recovery order(s) dated 19.08.2025 (Annexure P-1) along with the reminder(s) dated 25.08.2025/29.10.2025 (Annexure P-2) are hereby quashed and set-aside. The respondents are restrained from effecting any recovery from the petitioner(s).

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12. Pending miscellaneous application, if any, also stands disposed of.

13. A photocopy of this order be placed on the file of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

23.12.2025
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No