



2025:DHC:1979-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 24.03.2025*

+ W.P.(C) 3594/2025  
BANK OF BARODA

.....Petitioner  
Through: Mr.Arun Aggarwal, Adv.

versus

GURDEV SINGH MINHAS & ORS.

.....Respondents  
Through: Mr.Rishabh Sahu, Sr. Panel  
counsel with Mr.Sameer  
Sharma & Ms.Somya Dhawan,  
Advs. for R-2 to R-4.

**CORAM:**  
**HON'BLE MR. JUSTICE NAVIN CHAWLA**  
**HON'BLE MS. JUSTICE RENU BHATNAGAR**

**NAVIN CHAWLA, J. (ORAL)**

**CM APPL. 16819/2025 (Exemption)**

1. Allowed, subject to all just exceptions.

**CM APPL. 16817/2025**

2. This application has been filed by the petitioner seeking condonation of delay of 7 months and 26 days in filing of the petition.

3. For the reasons stated in the application, the delay is condoned.

4. The application is disposed of.

**W.P.(C) 3594/2025 & CM APPL. 16818/2025**

5. This petition has been filed by the petitioner, challenging the Order dated 16.04.2024 passed by the learned Central Administrative



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Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'learned Tribunal'), in Original Application No. 1990/2018 (O.A.) titled ***Gurdev Singh Minhas v. Union of India & Ors.***, partially allowing the O.A. filed by the respondent no.1 herein, with the following directions:-

*"12. Perusing the pleadings available on record and the arguments advanced by the learned counsels for the respective sides and taking lead from the various ratios laid down by the Hon'ble Supreme Court and followed by this Tribunal, I am of the considered opinion that if any erroneous payment has been made to the applicant and the fault for making such payment entirely lies with the respondents and if any wrong fixation has been done which has resulted into excess payment of the pension to the applicant for which the applicant is not at fault, the respondents cannot make recovery of such payments from the applicant in view of the settled legal position in this regard. The respondents are not entitled to recover the excess payment made to the applicant.*

*13. In the light of above discussion, the error which has been committed by the respondents cannot be shifted to the shoulders of the applicant. No fault is made out on the part of the applicant and the entire fault lies with the respondents for the erroneous fixation and payment.*

*14. Accordingly, the OA is allowed. The respondents are directed not to make any further recovery from the applicant and also to refund the recovered amount to the applicant within a period of three months from the date of receipt of a certified copy of this order. The applicant will be entitled to the pension per the revised PPO. However, there shall be no order as to costs."*



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6. The respondent no.1 had filed the above O.A. before the learned Tribunal, contending therein that upon his superannuation on 30.06.2004 as an Assistant Engineer, his basic pay was Rs.14,730/-. He further contended that after the implementation of the 6<sup>th</sup> CPC, his pay was notionally fixed in PB-II + GP 4600/-, which was the replacement scale of pay of Rs.6500-10,500/-. However, a revised Pension Payment Order (PPO) was not issued by the competent authority.

7. He further stated that after some litigation pending in relation to the pay of Assistant Engineers, the competent authority, *vide* Order dated 16.11.2017, revised the pay of the respondent no.1 with effect from 09.08.1999 and consequently, revised his pay to Rs.11,300/- at the time of his retirement. Pursuant thereto, a revised PPO dated 26.03.2018 was issued to take effect from 01.01.2016 pursuant to the 7<sup>th</sup> CPC, and his pension was reduced from Rs.44,493/- to Rs.29,300/- . He also received a communication from the bank, that is, the petitioner herein, not only reducing the monthly pension, but also initiating a recovery of Rs.10,000/- per month from his monthly pension. Aggrieved thereby, the respondent no.1 filed the above O.A. praying for the following reliefs: -

- “(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 26.3.2018 (All) and declaring to the effect that the same is illegal, arbitrary and discriminatory and consequently pass an order directing the respondents to restored the earlier pension of the applicant with all the consequential benefits including arrears of difference of pension with interest.*
- (ii) That the Hon'ble Tribunal may graciously*



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*be pleased to pass an order directing the respondents to re-fix the pension of the applicant from the date of retirement as per the revised pay order dated 16.11.2017 with all the consequential benefits w.e.f. 1.1.2006 in Grade pay of Rs. 4600/ and not to recover any amount from the pension of the applicant in compliance of the impugned order and also refund the same if already recovered with interest.”*

8. The learned Tribunal, by the Impugned Order has, placing reliance on the judgment of the Supreme Court in ***State of Punjab & Ors. v. Rafiq Masih (White Washer) Etc.***, (2015) 4 SCC 334, held that the excess payment even erroneously made to the respondent no.1, was due to the fault of the petitioner and the respondent nos.2 to 4 herein, who were all added as the respondents to the O.A., and that no part of it can be attributed to the respondent no.1, who was the petitioner/applicant before the learned Tribunal. The learned Tribunal, therefore, held that the petitioner and the respondent nos.2 to 4 are not entitled to recover the excess payment made to the respondent no.1 herein.

9. The learned counsel for the petitioner submits that due to an inadvertent error of the employees of the petitioner, excess amount was being released to the respondent no.1 as pension. On receiving of the revised PPO, a communication dated 24.08.2018 was issued to the respondent no.1, informing him of the excess payment made to him and also stating that an amount of Rs.13,84,257/- paid in excess to him needs to be recovered. A vague reply dated 27.04.2018 was received from the respondent no.1, and considering the same, recovery



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was initiated.

10. He further submits that the respondent no.1 had given a Letter of Undertaking dated 28.06.2004, clearly undertaking that in case it is later found that the amount of pension released to him was in excess, he shall forthwith return the same to the bank. He submits that this Letter of Undertaking has not been considered by the learned Tribunal while passing the Impugned Order.

11. We have considered the submissions made by the learned counsels for the petitioner, however, find no merit in the same.

12. It is not denied that from the year 2004, when the respondent no.1 had retired from the service of the respondent no.3, till the Impugned Letter dated 24.04.2018, pension was being released to the respondent no.1, claimed to be in excess of his entitlement, however, the fault for this excess payment cannot be attributed to the respondent no.1.

13. In *Rafiq Masih* (supra), the Supreme Court has held that where payments have been mistakenly made in excess, the recovery from the employees would be impermissible in law, *inter alia*, where the employee has retired from service or is due to retire within one year of the order or recovery.

14. In the present case, the respondent no.1 had long retired, and in fact, the recovery is sought to be made from his pension.

15. The learned Tribunal has, therefore, rightly partially allowed the O.A. filed by the respondent no.1 and has restrained the petitioner and the respondent nos.2 to 4 from making any recovery of the alleged excess amount paid to him.



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16. As far as the prayer of the petitioner that at least for the future the petitioner should be allowed to release only the entitled amount to the respondent no.1 as his pension, the learned Tribunal has, in its Impugned Order, further directed that the respondent no.1 will be entitled to pension as per the revised PPO. Therefore, no further direction is called for in this regard.

17. The petition is, accordingly, disposed of.

**NAVIN CHAWLA, J**

**RENU BHATNAGAR, J**

**MARCH 24, 2025/rv/DG**

*Click here to check corrigendum, if any*