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(I) CWP-5666-2023
Date of Decision : March 18, 2026

PREM KUMAR AND OTHERS -PETITIONERS

V/S

STATE OF PUNJAB AND OTHERS -RESPONDENTS

(II) CWP-22504-2023

ASSA RAM -PETITIONER

V/S

STATE OF PUNJAB AND OTHERS -RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Mr. Sahil R. Bakshi, A.A.G., Punjab.

KULDEEP TIWARI, J. (ORAL)

1. Both these writ petitions are amenable for being decided through a common verdict on account of their inhering a common question of law.
2. The petitioners have collectively challenged the action of the respondent-department, where they were employed until retirement, initiating recovery proceedings from their pensionary benefits on account of re-fixation of pay, and that too, without any prior notice or intimation.
3. Learned counsel for the petitioners submits that the impugned action of the respondent-department is contrary to its own instructions dated 01.11.2021 and 28.08.2015. It is further submitted that initiation of recovery

from the petitioners' pensionary benefits on account of re-fixation of pay is in blatant violation of the statutory guidelines laid down by the Hon'ble Supreme Court in the case of ***"State of Punjab and Others Vs. Rafiq Masih (White Washer) and Others"***, (2015) 4 SCC 334. The relevant paragraphs of ***Rafiq Masih's*** case are extracted hereunder:-

"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.

13. We are informed by the learned counsel representing the appellant- State of Punjab, that all the cases in this bunch of appeals, would undisputedly fall within the first four categories delineated hereinabove. In the appeals referred to above, therefore, the impugned orders passed by the High Court of Punjab and Haryana (quashing the order of recovery), shall be deemed to have

been upheld, for the reasons recorded above.”

4. Learned counsel further submits that there is no allegation of misrepresentation or fraud on the part of the petitioners, and consequently, the respondent-department has no cause to initiate recovery proceedings. Therefore, it is submitted that no recovery should be effected from the pensionary benefits of the petitioners, who retired between 2020 and 2022.

5. It is further submitted that a Co-ordinate Bench of this Court, through drawing the **verdict dated 27.05.2024** in **CWP-12545-2024 (Gurcharan Singh vs. State of Punjab and Others)**, which was instituted by similarly situated employees/pensioners, held that no recovery pursuant to the impugned action of the respondent authorities shall be effected from the petitioners therein. The relevant paragraphs of the said verdict are reproduced hereinafter:-

“3. Learned counsel for the petitioner has submitted that a perusal of above-said para would show that the Hon'ble Supreme Court had summarized certain situations wherein the recoveries by the employers would be impermissible in law, where the payments had been made mistakenly by the employer, in excess of entitlement to the employee and one such situation, as provided under Clause (ii) of Para 12, was recovery from retired employees or employees who are due to retire within one year, of the order of recovery. It is stated that the case of the present petitioner is squarely covered under the said clause (ii) as it is not in dispute that the petitioner has retired on 31.03.2021 and there is no allegation of any misrepresentation or fraud on his part.

4. Learned State counsel has not able to dispute the law laid down in the above-said judgment and has no objection to the said limited prayer made by learned counsel for the petitioner.

5. Keeping in view the above-said facts and circumstances, the present writ petition is allowed to the extent that no recovery in pursuance of the impugned action of the respondent authorities

would be effected from the present petitioner.”

6. Learned State counsel, while placing on record a reply dated 16.03.2026 (in CWP-5666-2023) and joining issue on merits, contends that the petitioners do not have any indefeasible right to retain amounts erroneously paid to them. However, he fairly concedes that the case of the present petitioners is squarely covered by the *verdict dated 27.05.2024* passed in *CWP-12545-2024 (Gurcharan Singh vs. State of Punjab and Others)*.

7. In view of the above, *the impugned action of the respondent-department effecting recovery from the petitioners’ pensionary benefits is set aside. It is directed that no further recovery shall be effected from the petitioners, and if any recovery has already been effected, the same shall be refunded to the respective petitioners within three months from the date of receipt of certified copy of this order. However, the refunded amounts shall not carry any interest.*

8. Both these writ petitions stand disposed of accordingly.

9. A photocopy of this order be placed on file of connected case.

March 18, 2026
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No