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

CWP-12342-2021

Date of decision: 16.02.2026

RAKESH BHANDARI AND OTHERS**....Petitioners****Versus****STATE OF PUNJAB AND OTHERS****....Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Inderjit Sharma, Advocate
for the petitioners.

Mr. Vikas Sonak, AAG, Punjab.

Mr. Birinder Pal, Advocate with
Mr. Charambir Singh, Advocate
Mr. Sandeep Sharma, Advocate and
Mr. Rashmeen Randhawa, Advocate
for respondent No.5.

HARPREET SINGH BRAR, J (Oral):

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *Certiorari* for quashing of the letters/orders/actions of the respondents (Annexures P-1 to P-9), namely: 08.10.2018 (Annexure P-1) amounting to ₹59,942/-, 22.03.2021 (Annexure P-2) amounting to ₹56,097/-, 21.06.2018 (Annexure P-3) amounting to ₹94,058/-, 18.09.2018 (Annexure P-4) amounting to ₹81,761/-, 05.10.2018 (Annexure P-5) amounting to ₹82,445/-, 10.08.2018 (Annexure P-6) amounting to ₹47,525/-, 21.06.2018 (Annexure P-7) amounting to ₹77,297/-, 22.03.2021 (Annexure P-8) amounting to ₹61,633/-, and 22.03.2021 (Annexure P-9) amounting to ₹62,773/-, whereby illegal recoveries have been effected from the retiral benefits of the petitioners after their retirement, without their knowledge and due to wilful default on the part of the respondents.



The said action of the respondents is assailed as patently illegal, perverse, arbitrary, cryptic, discriminatory, violative of the principles of natural justice and Article 14 of the Constitution of India, and thus unsustainable in the eyes of law. A writ of *Mandamus* is further sought directing the respondents to refund the amounts recovered vide Annexures P-1 to P-9, along with interest @18% per annum from the date of recovery till actual realization.

2. Learned counsel for the petitioners *inter alia* contends that the petitioners, who served under respondent No.5 on Class-III posts, have since retired, and the impugned recoveries have been effected from their retiral dues. Referring to the reply dated 22.06.2022 filed on behalf of respondents No.1, 2 and 4, he submits that in paragraph 3 thereof, it is stated that the recoveries were initiated on account of excess payments detected during an audit conducted for the period from April 1997 to March 2003, whereas all the petitioners retired between the years 2012 and 2020.

3. The counsel further submits that the case of the petitioners is squarely covered by the law laid down by the Hon'ble Supreme Court in ***State of Punjab and others v. Rafiq Masih (White Washer) etc., 2015(4) SCC 334***. The impugned recoveries are legally impermissible, firstly, because no recovery from retired Class-III and Class-IV employees is permissible; and secondly, because the recoveries have been effected without issuance of any show-cause notice or affording an opportunity of hearing. It is further contended that the petitioners are not guilty of any



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misrepresentation or fraud at the time the alleged excess payments were made.

4. Learned counsel appearing for respondent No.5 submits that the recoveries were made from the salary of the petitioners and not from their pensionary benefits, as is evident from the comparative chart furnished in paragraph 4 of the written statement. On this premise, it is contended that the petition is liable to be dismissed.

5. Learned State counsel submits that some recoveries were made in part and certain recoveries were effected beyond one year from the date of retirement. It is contended that the case of the petitioners does not strictly fall within the parameters laid down in ***Rafiq Masih's case (supra)***.

6. In rebuttal, learned counsel for the petitioners submits that Annexures P-1 to P-9 unequivocally demonstrate that the recoveries were made from the retiral dues of the petitioners. It is further contended that even if petitioner No.2 (Ashwani Bhan) and petitioner No.8 (Gurinder Kumar) are excluded, the remaining petitioners are fully covered under the law laid down in ***Rafiq Masih's case***, since recoveries have been effected within one year of their retirement.

7. I have heard learned counsel for the parties and perused the record with their able assistance. It transpires that the impugned recoveries were initiated on the basis of an audit report pertaining to the period from April 1997 to March 2003. The inordinate delay in initiating recovery proceedings, in the absence of any allegation of misrepresentation or fraud on the part of the petitioners, by itself vitiates the impugned action.



8. Effecting recoveries at the twilight of an employee's career or after retirement causes immense hardship and severe psychological distress, particularly when such recoveries are sought after a lapse of more than a decade. Such belated action is clearly arbitrary and unsustainable in law, particularly when the petitioners retired from Class-III posts under respondent No.5. The particulars in respect of the petitioners' dates of appointment and retirement are as under:-

Sr. No.	Name and Father's Name	Name of Post	Date of appointment/ joining	Date of retirement
1.	Rakesh Bhandari s/o Baldev Singh Bhandari	Clerk	28.12.1984	30.09.2014
2.	Ashwani Bhan s/o Neelkanth Bhan	Clerk	28.12.1984	31.01.2020 (Availed two year extension)
3.	Ravinder Kumar s/o Babu Ram	Clerk	16.01.1983	31.05.2015
4.	Bodh Raj s/o Sain Dass	Clerk	26.12.1984	31.12.2015
5.	Narinder Kumar s/o Buta Ram	Clerk	19.09.1983	31.01.2012
6.	Arvind Puri s/o Kanwal Kishore Puri	Clerk	29.07.1980	31.03.2016
7.	Kanwarjeet Singh s/o In-derjeet Singh	Clerk	31.12.1984	31.03.2014
8.	Gurinder Kumar s/o Ajit Kumar	Clerk	28.12.1984	31.03.2020
9.	Ramesh Kumar s/o Sh. Hans Raj	Clerk	11.01.1985	31.12.2015

9. Respondent No.5 has failed to justify the recoveries at such a belated stage, when the alleged excess payments were made way back in



April of 1997. The case of the petitioners is squarely covered by the principles laid down by the Hon'ble Supreme Court in **Rafiq Masih's case** (supra). Except for petitioner No.2 and petitioner No.9, the recoveries in question were effected within one year of retirement.

10. Further, the Full Bench of this Court in **Budh Ram and others v. State of Haryana and others, 2009(3) SCT 333**, held that where a higher pay scale has been granted without any fault of the employee, such benefit may be withdrawn prospectively, but past payments cannot be recovered. Similar principles were reiterated by the Division Bench in **Major General G.S. Riar v. State of Punjab and others, 2010(4) SCT 580**. The Hon'ble Court in **Rafiq Masih's case** (supra) while dealing with the issue observed that :-

“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 employees, 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.”*

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11. Accordingly, the present petition is allowed. Since the recoveries were made after a lapse of more than five years and in the absence of any misrepresentation or fraud, the same are held to be illegal and unsustainable. The respondents are directed to refund the recovered amounts along with interest @6% per annum, calculated after the expiry of two months from the date of recovery till actual realization. The needful shall be done within a period of three months from the date of receipt of a certified copy of this order.

12. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

16.02.2026
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| 1. Whether speaking/ reasoned : | Yes /No |
| 2. Whether reportable : | Yes /No |