



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

CWP-24869-2023

Date of decision : 09.04.2026

Chander Pal

...Petitioner

Vs.

Union of India and others

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Barjinder Singh, Advocate
for the petitioner.

None for respondent Nos.1 and 3.

Ms. Deepali Puri, Advocate
for respondent Nos.2, 4 and 5 (through video conference).

HARSIMRAN SINGH SETHI, J.(Oral)

1. In the present petition, the challenge is to the order dated 04.07.2023 passed by the Central Administrative Tribunal copy of which has been appended as Annexure P-1, by which, the benefit of an increment which was granted to the petitioner while in service, which was granted at the time of regular promotion, which was withdrawn by the respondent-employer on the ground that increment was already granted at the time of adhoc promotion has been upheld.

2. Learned counsel appearing on behalf of the petitioner argues that the benefit of one additional increment granted on adhoc promotion, even though has been wrongly granted, the same could have only been withdrawn during petitioner's service career, but after his retirement from service, the said

increment granted to him could not have been withdrawn even if same was granted beyond his entitlement, as according to the rules governing, such withdrawal can only be done by the State in case the said grant of the benefit is a result of a typographical error.

3. Learned counsel for the petitioner further submits that even otherwise, the recovery of amount received by petitioner upon grant of increment has been ordered from the petitioner, which is not permissible as there was no manipulation/misrepresentation at the hands of the petitioner to secure the increment either at the time of adhoc promotion or at the time of regular promotion therefore, the Tribunal should have considered that keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in *State of Punjab and others Vs. Rafiq Masih (White Washer) and others, 2015 (1) S.C.T.195*, that the recovery of any excess payment given to an employer in such cases cannot be done. Hence, the petitioner will be satisfied in case, the recovery sought to be done of the excess amount paid is set aside.

4. The learned counsel for the respondent on the other hand submits that once, the benefit of an additional increment was given beyond entitlement though inadvertently, but in any scenario such excess amount cannot be retained by the petitioner and the decision of the Tribunal that the recovery of excess amount paid, can be done in the present case is perfectly valid, hence, the writ petition may kindly be dismissed.

5. We have heard the learned counsel for the parties and have gone through the record with their able assistance.

6. It may be noticed that the grant of an increment has been done by the State and not by the employee concerned. In case, at the time when adhoc

promotion was granted to the petitioner, an increment was granted, the State should have been vigilant enough not to grant the same again at the time of the regular promotion. Once, the State, though inadvertently has granted the benefit of increment twice, though the State is within its jurisdiction to rectify the said mistake, but it cannot be said that while rectifying such inadvertent mistake, even the excess amount paid is liable to be recovered.

7. The issue of recovery of the excess amount paid to an employee has already been settled by the Hon'ble Supreme Court of India in *State of Punjab and others Vs. Rafiq Masih (White Washer) and others, 2015 (1) S.C.T.195*. The relevant extract of the judgment is reproduced herebelow:-

“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. A bare perusal of the above would show that any excess amount paid to an employee cannot be recovered from him after retirement. In the present case, the recovery was being sought to be done after the retirement, which is not permissible. Further, as per Para-12, any

benefit which was wrongly given, and same has sustained for a period of five years, the recovery of any excess amount received on grant of such benefit wrongly given cannot be done. Hence, the said clause is also applicable in the facts and circumstances of the present case to hold that the recovery of the excess amount cannot be done at this stage.

9. Further, as per the judgment of Hon’ble Supreme Court of India in Thomas Daniel vs. State of Kerala and others, 2022 (2) SCT 722, no recovery can be done unless there is any misrepresentation on part of the employee concerned. In the present case, pleading does not state any misrepresentation on the part of the petitioner to attain the excess amount as, the fixation of the pay after the adhoc promotion as well as after the regular promotion was done by the State. That being so, the order passed by the Tribunal allowing the recovery to be done from the petitioner cannot be sustained. Hence, the order passed by the Tribunal dated 04.07.2023 is modified to the extent that though, the respondent will fix the pension admissible to the petitioner after re-fixing his salary, but any excess amount paid, will not be recovered.

10. The writ petition stands disposed of.

11. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

09.04.2026
vanita

Whether speaking/reasoned :	Yes
Whether Reportable :	No