IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWPOA No.6702 of 2020 a/w CWPOA Nos.7894, 7897, 7898, 7901, 7929, 7931 and 7933 of 2019, CWP No.1203 of 2020 Execution Petition No.503 of 2023 and CWP No.12116 of 2024

Decided on: 09.01.2026.

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1. **CWPOA No.6702 of 2020**

Ramesh Chand and Others …Petitioners

Versus

State of Himachal Pradesh & Others …Respondents

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2. **CWPOA No.7894 of 2019**

Mansa Ram …Petitioner

Versus

State of Himachal Pradesh & Others …Respondents

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3. **CWPOA No.7897 of 2019**

Mohan Singh …Petitioner

Versus

State of Himachal Pradesh & Others …Respondents

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4. **CWPOA No.7898 of 2019**

Mor Dass …Petitioner

Versus

State of Himachal Pradesh & Others …Respondents

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5. **CWPOA No.7901 of 2019**

Brij Lal …Petitioner

Versus

State of Himachal Pradesh & Others …Respondents

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6. **CWPOA No.7929 of 2019**
Ramesh Chand ...Petitioner

Versus

State of Himachal Pradesh & Others ...Respondents

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7. **CWPOA No.7931 of 2019**
Sita Ram ...Petitioner

Versus

State of Himachal Pradesh & Others ...Respondents

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8. **CWPOA No.7933 of 2019**
Jia Lal ...Petitioner

Versus

State of Himachal Pradesh & Others ...Respondents

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9. **CWP No.1203 of 2020**
Madan Mohan Singh ...Petitioner

Versus

State of Himachal Pradesh & Others ...Respondents

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10. **Execution Petition No.503 of 2023 in CWP No.7040 of 2021**
Krishnu Ram ...Petitioner

Versus

State of Himachal Pradesh & Others ...Respondents

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11. **CWP No.12116 of 2024**
Kulbir Singh ...Petitioner

Versus

State of Himachal Pradesh & Others ...Respondents

Coram

Hon'ble Mr. Justice Ranjan Sharma, Judge

[1] *Whether approved for reporting?. Yes.*

For the petitioner:	Ms. Manisha Thamta, Advocate, for the petitioner in CWPOA No.6702 of 2020.
	Mr. Neel Kamal Sood, Senior Advocate with Mr. Amir Khan and Ms. Divya Jyoti, Advocates, for the petitioners in CWPOA Nos.7894, 7897, 7898 [since deceased], 7901, 7929, 7931 and 7933 of 2019.
	Mr. A.K. Sharma, Advocate, for the petitioner(s) in CWP No.1203 of 2020.
	Mr. S.K. Pandey, Advocate, for the petitioner in Execution Petition No.503 of 2023.
	Mr. Bhim Raj Sharma, Advocate, for the petitioner(s) in CWP No.12116 of 2024.
For the respondents:	Mr. Sumit Sharma, Deputy Advocate General, for the respondents-State, in respective petitions.
	Mr. Lokender Paul Thakur, Senior Panel Counsel, for the Respondent-Accountant General, in the respective petitions, except in CWP No.1203 of 2020 and CWP No.12116 of 2024.

[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

Mr. Rangil Singh, Advocate, for the Respondent-Accountant General in CWP No.1203 of 2020 and CWP No.12116 of 2024.

Ranjan Sharma, Judge *[Oral]*

Petitioner, Ramesh Chand, along with 09 others, had filed Original Application No. 1648 of 2019 before the State Administrative Tribunal and, upon abolition of the Tribunal, the matter came to be re-transferred to this Court as CWPOA No. 6702 of 2020.

2. Likewise, the petitioners, namely, Mansa Ram, Mohan Singh, Mor Dass, Brij Lal, Ramesh Chand, Sita Ram and Jia Lal had filed had filed Original Applications Nos.1648 of 2019, 3480 of 2016, 3481 of 2016, 3482 of 2016, 3483 of 2016, 3484 of 2016, 3486 of 2016 and 3485 of 2016, before the State Administrative Tribunal and upon abolition of Tribunal, the matters came to be re-transferred to this Court as CWPOA No.7894, 7897, 7898, 7901, 7929, 7931 and 7933 of 2019, respectively.

3. With the consent of Learned Counsel(s) since issue relates to re-fixation of pay and recovery of retirees as well as in service employes, therefore, CWPOA No.6702 of 2020 [originating from OA No.1648 of 2019, titled Ramesh Chand & Others versus State of Himachal Pradesh & Others] is treated as the lead case for adjudicating all the connected cases.

FACTUAL MATRIX IN CWPOA NO.6702 OF 2020:

4. Petitioner, Ramesh Chand, had filed Original Application No.1648 of 2019, converted as CWPOA No.6702 of 2020, seeking the following relief(s):

> "i. That the Respondents may kindly be directed to cancel and held void the Office Order No.PW-ED-CB-EA-II-Pay Fixation/ 2018-19-7039-43, 7069-73, 7074-78, 7069-73 Dated 27.03.2019 and other similar orders issued on the same date specifically addressed to all the present Applicants in pursuance to the order of recovery vide office order No.6897-6902 dated 23.03.2019, whereby the orders of recovery consequent upon the revised fixation made by the Respondent No.3 were passed in contravention to the well established legal principles as well as in contravention to the directions passed by

> the Hon'ble Apex Court from time to time."

4(i). Case as set up by Learned Counsel for the petitioner, is that the petitioners are working as technicians [Technician Grade-II and Technician Grade-I] under the Public Works Department of the State Government. They were initially engaged on daily wage basis and were regularized on different dates w.e.f. 1994 onwards. It is further averred that the petitioners were granted the benefit of promotions as Technician Grade-II and thereafter as Technician Grade-I on different dates from 2002 to 2019.

4(ii). It is averred that while the petitioners were working as Technicians, the State Authorities notified the Assured Career Progression Scheme on 09.08.2012, giving effect to the said Scheme w.e.f. 27.08.2009, whereby progression incentives were to be granted on completion on 4, 9 & 14 years of service in a cadre. Based on the ACP Scheme, notified on 09.08.2012, the State Government issued a Communication dated 07.07.2014 *[Annexure A-2]* reiterating the admissibility of benefits under the

Scheme.

4(iii). It is averred that on the ACP Scheme notified on 09.08.2012, State Authorities granted the benefit of ACP benefits on completion of 4, 9 & 14 years of service to the petitioners and benefit of higher pay was extended/granted to them and some of the petitioners retired on different dates between 30.04.2019 and 31.03.2025, while some of the petitioners are still in service.

4(iv). It is averred that abruptly, the State Authorities issued an order on 23.03.2019 *[Annexure R-3]*, with the Reply-Affidavit, whereby the ACP benefits and progression incentives granted on completion of 4, 9 & 14 years of service to the petitioners as in the cadre of Technicians was withdrawn/revised leading to re-fixation of pay and the recovery also.

It is in this backdrop that the petitioners have come up before this Court, assailing the re-fixation order dated 23.03.2019 *[Annexure R-3]* and the resultant-orders issued for effecting recovery of excess amount given to the petitioners due to wrongful release of ACP benefits.

4(v). It is averred that petitioners are Class-III employees and, therefore, recovery from Class-III employees is contrary to law in view of the judgment **Rafiq Masih** and the recovery beyond five years and that to without any misrepresentation or fraud on the part of the petitioners was also uncalled for.

It is in this backdrop that orders dated 23.03.2019 *[Annexure R-3]* and resultant recovery orders dated 27.03.2019 *[Annexure A-1, Colly]* have been assailed in instant petition and connected cases.

STAND OF STATE AUTHORITIES IN REPLY-AFFIDAVIT:

5. Pursuant to the issuance of notice on 25.04.2019, the State Authorities were directed to file a Reply-Affidavit and the recovery in pursuance to the Office Order dated 27.03.2019 *[Annexure A-1]* was stayed.

5(i). Perusal of the Reply-Affidavit indicates that petitioners along with 56 other incumbents were granted the benefit of ACP on 11.07.2013 *[Annexure R-1]* in contravention of Instructions issued by the

Finance Department. Reply-Affidavit further indicates that as per the Instructions issued by the Finance Department on 07.07.2014 [Annexure A-2] the ACP benefits were not admissible to the category of Technicians i.e. petitioners herein.

5(ii). Reply-Affidavit further indicates that after the superannuation of some of the Technicians and while processing the cases for retiral benefits, the factum of non-admissibility of ACP benefits came to light. It is in this backdrop that the Reply-Affidavit states that revised fixation orders dated 23.03.2019 *[Annexure R-3]* and resultant recovery orders dated 27.03.2019 *[Annexure A-1, Colly]* were issued. Reply-Affidavit further indicates that after noticing the factum of inadmissibility of ACP benefits, the Review DPC was held and thereafter the orders of re-fixation of pay and recovery of the petitioners and other incumbents were issued, in terms of order dated 27.03.2019 *[Annexure A-1, Colly]*.

5(iii). Reply-Affidavit further indicates that once the pay of an employee was fixed then, the said fixation was subject to verification by the audit and

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the overpayment, if any, was liable to be recovered from the concerned official in Lump sum. Reply-Affidavit further indicates that as per Annexure R-5 the alleged recovery of overpayment on account of wrongful extension of ACP benefits ranges from ₹40,000/- to ₹50,000/- in case of petitioners also.

It is in this backdrop, prayer is made for dismissal of the writ petition.

NO REBUTTAL BY PETITIONER:

6. Petitioners have not filed any rebuttal to the Reply-Affidavit. However, it is contended by Learned Counsel for the petitioners that even if the ACP benefits were not admissible in case of petitioners who were Technicians still the recovery could not be ordered/affected from them by giving a complete go by to the statutory Rules and the mandate of law in the case of **Syed Abdul Qadir versus State of Bihar,** *(2009) 3 SCC 475;* **ITC Limited Versus State of Uttar Pradesh and Others,** *(2011) 7 SCC 493*; **Thomas Daniel versus State of Kerala and Others,** 2022 SCC OnLine SC 536; **Jagdish Prasad Singh versus State of Bihar and**

Others, *Civil Appeal No(s).1635 of 2013;* **State of Punjab and Others** versus **Rafiq Masih,** *2015 (4) SCC 334,* **Jogeswar Sahoo and Others** versus **District Judge, Cuttack and Others,** *2025 SCC OnLine SC 724* and **Panchayat & Rural Development Department and Others versus Santosh Kumar Shrivastava,** *2025 SCC OnLine SC 2042.*

7. Heard Ms. Manisha Thampta, for the petitioners, in the Lead case, along with Mr. Neel Kamal Sood, Learned Senior Counsel, assisted by Ms. Divya Jyoti and Mr. Amir Khan, Advocates, for the petitioners in other connected matters; Mr. Sumit Sharma, Learned Deputy Advocate General, for the respondent–State; Mr. A.K. Sharma, Mr. S.K. Pandey and Mr. Bhim Raj Sharma, Learned Counsel for the petitioners in their respective cases; and Mr. Lokender Paul Thakur, Learned Senior Panel Counsel, for the respondents in his respective petitions, and perused the material available on record.

8. During the course of hearing, Learned State

Counsel relied upon the Judgment passed by this Court in **Ramesh Chand versus State of Himachal Pradesh & Ors., CWPOA No.6192 of 2020,** decided on 02.12.2024, dealing with both the issues *firstly*, as to whether the ACP benefits were admissible to the Junior Technicians, Technician Grade-II and Technician Grade-I and *secondly*, as to whether the excess amount released due to wrong application of ACP could be recovered stands answered by this Court, mandating that the ACP benefits were not admissible to Technicians in terms of the Pay Rules and ACP Scheme and due to inadmissibility of ACP benefits *dehors* the Rules/Scheme the withdrawal of ACP benefit was upheld for reason that these benefits could not be extended dehors the Rules/Scheme.

9. So far as recovery is concerned, the recovery orders were quashed by this Court by taking into account the mandate of judgments passed by the Hon'ble Supreme Court in **Rafiq Masih, Thomas Daniel** and **Jagdish Prasad Singh.**

10. Faced with the above situation, Learned Counsel for the petitioners does not dispute the mandate of this Court in the case of **Ramesh Chand** *(supra)*. On instructions, the petitioners fairly admit that they do not intend to assail-pursue refixation orders dated 23.03.2019 *[Annexure R-3]*, whereby, the ACP benefits wrongly given were withdrawn by the State. Learned Counsel(s) further submit that only surviving grievance is with respect to recovery, which is intended to be affected from the petitioners, on the basis of *[Annexure R-3]* dated 23.03.2019 and the consequential order dated 27.03.2019 *[Annexure A-1, Colly]*.

10(i). So far as the issue regarding inadmissibility of ACP benefits to Technicians [Junior Technician, Technician Grade-II, Technician Grade-I] is concerned, the same stand adjudicated in the judgment, in the case of ***Ramesh Chand (supra),*** which reads as under:-

> "**ANALYSIS ON CLAIM [A]:**
>
> **WITHDRAWAL OF ACPS ON 03.10.2018, 18.10.2018 & 29.10.2018 [ANNEXURE A-5 TO A7]:**
>
> 10. Taking into account the entirety of the facts and circumstances and the Himachal Pradesh Civil Services [Revised Pay] Rules dated 01.09.1998 and the New Assured Career Progression Scheme dated 09.08.2012

[Annexure A-3], this Court is of the considered view, that prayer of the petitioner for quashing of orders dated 03.10.2018, 18.10.2018 and 29.10.2018 [Annexure A-5 to A-8] after completion of 4, 9 and 14 years of service as Technician [Grade-II] [Mechanical-cum-Fitter] and in *refixing the pay* of petitioner does not calls for any interference, *for following reasons :-*

HPCS [REVISED PAY] RULES: GRANTING THREE TIER PAY STRUCTURE TO TECHNICIAN PETITIONER

10(i). The State notified the Himachal Pradesh Civil Services Revised Pay Rules on 01.09.1998, providing that the Skilled and Semi-Skilled Technicians in each trade i.e.(i) Junior Technicians, (ii) Technician-Grade-II; and (iii) Technician Grade-I, would be given three tier higher pay structure of Rs.3120-5160; Rs. 4020-6200 & Rs.4550-7220, in ratio of 50:30:20 w.e.f. 01.01.1996. These Revised Pay Rules provided that 50% posts would be of Technicians [Junior Technicians] at entry level in pay scale of Rs.3120-5160; and next 30% posts would be for Technicians Grade-II in the higher pay scale of Rs.4020-6200; and remaining 20% posts would be of Technicians Grade-I, in the next higher pay scale of Rs.4550-7220 in the cadre of Technicians w.e.f. 07.01.1996 onwards. After the revision of pay scales, vide Himachal Pradesh [Revised Pay] Rules dated 26.08.2009 w.e.f. 01.01.2006, the pay scales of Technicians [Junior Technicians; Technicians Grade II and Technicians Grade I] were granted revised pay scales by way of conversion. Petitioner, Ramesh Chand, in the instant case

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was treated as Technician [Mechanic-cum-Fitter] w.e.f. 01.01.1994 and the petitioner was given placement in the next higher pay band by the respondents w.e.f. 01.06.2010 [as is borne
out from Serial No.5 in [Annexure A-4].

OLD ACPS AND NEW ACPS:
NOT APPLICABLE TO TECHNICIAN: PETITIONER

10(ii). In addition to the Himachal Pradesh Revised Pay Rules dated 01.09.1998, the Respondents notified the Assured Career Progression Scheme dated 15.12.1998 applicable w.e.f. 01.01.1996 and after the revision of pay scales on 26.08.2009 w.e.f. 01.01.2006 the respondents notified the New ACPS dated 09.08.2012 [Annexure A-3], applicable w.e.f. 27.08.2009.

Perusal of the Old ACPS dated 15.12.1998 and New ACPS dated 09.08.2012 reveals that the benefits of higher pay/higher grade pay under Old ACPS of 1998 and New ACPS of 2012 was not available to those categories of government employees, who have been allowed three or more trade structure of pay scales. Meaning thereby, that benefits under Old ACPS and even under New ACPS were not available to those categories of employees, who were allowed/presented the three or more pay structure of pay scales. The categories who were allowed three or more tier pay scales under the Revised Pay Rules applicable w.e.f. 01.01.1996 and w.e.f. 01.01.2006 were not at all eligible for any benefits [either of higher scale/increments/ higher grade pay under the Old ACPS of 1998 [applicable w.e.f. 01.01.1996] or under the New ACPS of 2012 [applicable w.e.f. 27.08.2009].

NON-APPLICABILITY OF OLD ACPS & NEW ACPS TO TECHNICIANS:

10(iii). As a sequel to Para 10(i)& (ii), admittedly, the Respondent-State Authorities have allowed prescribed the Three Tier Pay Scales to the category of Technicians [Skilled & Semi-Skilled] of Rs.3120-5160 to 50% posts; then, the higher scale of Rs.4020-6200 to 30% posts and thereafter the next higher scale of Rs.4550-7220 to remaining 20% posts in every cadre of Technicians w.e.f. 01.01.1996. The above Three Tier Pay Structure was prescribed to Technicians by virtue of HPCS [RP] Rules dated 26.08.2009 [applicable w.e.f. 01.01.2006] and by way of conversion even in the corresponding revised pay scales w.e.f. 01.01.2006 onwards. Thus, once as per the Revised Pay Rules applicable w.e.f. 01.01.1996 and w.e.f. 01.01.2006, once the category of Technicians [alike the petitioner] were granted the Three Tier Pay Structure therefore, such Technicians [alike petitioner] on having been allowed/prescribed the Three Tier Pay Structure were not at all eligible and were specifically excluded from the purview and applicability of the benefits under the Old and New ACP Schemes.

PRESCRIPTION OF THREE TIER PAY STRUCTURE UNDER HPSC [REVISED PAY] FOR PETITIONER-TECHINICIANS: DISENTITLES HIM FOR ACPS:

10(iv). Even on facts of instant case, the petitioner was treated/regularized as Technicians [Mechanical-cum-Fitter] w.e.f. 01.01.1994 in the pay scale of Rs.3120-5160 i.e. entry grade. Thereafter, the petitioner was granted next higher pay scale of Rs.4020-6200 w.e.f.

01.06.2010 [against Serial No.5 in Annexure A-4], in terms of Himachal Pradesh Civil Services [Revised Pay] Rules of 2009 [applicable w.e.f. 01.01.2006]. Thus, once the petitioner was governed by the Three Tier Pay Structure as per the Revised Pay Rules, therefore, the petitioner could not be eligible for benefits under Old as well as New ACPS.

EXPRESS OUSTER FROM ACPS DISENTITLES PETITIONER FOR ACP: LEADING TO ERRONEOUS RELEASE:

10(v). Once the pay of the petitioner was regulated by the Himachal Pradesh Civil Services [Revised Pay] Rules notified on 01.09.1998 [applicable w.e.f. 01.01.1996], prescribing the Three Tier Pay Structure in the ratio of 50:30:20, which continued on further revision by virtue of Himachal Pradesh [Revised Pay] Rules dated 26.08.2009 applicable w.e.f. 01.01.2006 by way of conversion in the corresponding revised scales in ratio of 50:30:20 and having been prescribed Three Tier Pay Structure; the petitioner was not to be granted benefits under Old ACPS dated 15.12.1998 and also the New ACPS dated 09.08.2012 [Annexure A-3] being an ousted category; then, the express-ouster of the petitioner from Old and New ACPS cannot confer any right on the petitioner for higher pay under ACPS, dehors the ACP Scheme.

INELIGIBLY DISENTITLES PETITIONER FOR ACP BENEFITS:

10(vi). The State Authorities have allowed Three Tier Pay Structure as per the Revised Pay Rules of 1998 and Revised Pay Rules of 2006 [as applicable w.e.f. 01.01.1996 & 01.01.2006] for the category of Technician(s) [i.e. Technician, Technician Grade-II and Technician Grade-I, with entry scale and then, the higher scale and next higher scale], therefore, in view of the prescription of Three Tier Pay Scales i.e. Higher Scales, the category of Technician(s) were treated as Ineligible for benefits of Old ACP Scheme of 1998 [applicable w.e.f. 01.01.1996 i.e. higher pay scale and proficiency increments on completion of 8, 16, 24 and 32 years service] and the Technicians were Ineligible for benefits of New ACP Scheme of 2012 [as applicable w.e.f. after 4, 9 and 14 years service; therefore, the petitioner being ineligible cannot claim benefits dehors the Old and New ACP Schemes. Thus, the ineligibility of petitioner, in view of the "Ouster Clause (i) in Old ACPS and New ACPS", ex-facie reveals that ACPS benefits were wrongly and erroneously extended to the petitioner on 07.08.2013 [Annexure A-4], which were validly withdrawn by the State Authorities on 03.10.2018 [Annexure A-5] and therefore, these orders and the consequential orders dated 18.10.2018 [Annexure A-6] and 29.10.2018 [Annexure A-7], do not suffer from any illegality or infirmity.

NO VESTED RIGHT FOR BENEFITS DEHORS ACP SCHEME:

10(vii). Petitioner can neither claim any benefit nor any vested right is available to him, to claim benefits under Old ACPS as well as New ACPS, in view of his ineligibility, as per the Ouster Clause (i) of these Schemes Ineligibility carved under the Rules/Schemes, qua the petitioner, is valid basis, for withdrawing the benefits of ACP Scheme, which were extended dehors the express intent and stipulation in Rules/Schemes. Thus, the ACP benefits granted/extended to petitioner dehors the Rules/Schemes, resulting in refixation of pay [without permitting recovery as in later part of this judgment], is legal and valid.

10(viii). Plea of Learned Counsel for petitioner is that the State Authorities have extended the benefit of New ACPS dated 27.09.2012, on completion of 4, 9 and 14 year service on 07.08.2013 [Annexure A-4], then, the said benefit(s) cannot be withdrawn on 03.10.2018 [Annexure A-5] and like orders dated 18.10.2018 and 29.10.2018 illegally, when, the benefits granted under ACPS were more beneficial to the petitioner.

The above contention of Learned Counsel for petitioner is without any merit, for the reason, that merely because the petitioner considers the release of benefits under ACPS to be beneficial is no ground, to permit the petitioner to enjoy benefits, dehors the ACP Scheme and when, the petitioner is ineligible and his category [who have already been allowed Three Tier Pay Structure], has been excluded from the ACP Scheme. Pay fixation and formulation of ACP Schemes are complex matters which primarily fall within the domain of expert bodies i.e. the Pay Commission and the experts in the government. An employee, alike the petitioner has neither any vested right nor any locus to assert that the ACP Scheme being beneficial vis-à-vis Three Tier Pay Scale may be continued for the petitioner, is misconceived as the application of the ACP Schemes cannot be left at the mercy of employees, so as to render such policies impracticable. Insisting for a particular benefit under a ACP Rule/Scheme dehors the mandate, intent and other conditions contained in such scheme/Rules and by ignoring the "Exclusion-Ouster Clause" contained in Old & New ACP Schemes, will not in any manner confer any vested or legal right on petitioner-employee who was not eligible for higher pay benefits under either the Old ACPS dated 15.12.1998 or under the New ACPS dated 09.08.2012. No vested right is violated for denying ACP benefits which are inadmissible under the Scheme, in terms of the mandate of Hon'ble Three Judge Bench of the Supreme Court, In re: The Vice Chairman Delhi Development Authority Versus Narender Kumar & Ors. [Civil Appeal No.1880 of 2022, decided on 08.03.2022, in following terms :-

"30. This brings the court to the next point, which is whether the employees can assert what is termed as a vested right. The first submission in this regard is that according to Para 9 of the MACP scheme, those who are in employment on the date when MACP scheme was brought into force and who are entitled to the ACP benefits, especially the second financial up-gradation had a right to insist that their second up-gradation should be granted in terms of the ACP scheme. In this context, the argument advanced is that Rule 9 preserves and protects such a right (for entitlement) to be granted the ACP benefits even after the introduction of the MACP scheme.

37. The myriad intricate details which the executive has to consider, while framing a scheme applicable generally, to a large section of the employees, may not always admit of one, or one set of solutions. **To insist that a particular kind of benefit, hitherto applicable, should be continued for a set of employees, while the others should be governed by another, new set or scheme, would be imposing a significant burden on the administration, apart from**

swelling financial costs as well as administrative energies. Such directions would result in creating different time warps, rendering efficient administration of personnel policies impracticable. Sans palpable or facial arbitrariness, the courts should be circumspect in adding conditions, or tampering with such arrangements. In Ajoy Kumar Banerjee v Union of India22 a five judge Bench of this court had emphasized this aspect in the following terms:

"46.... The legislature however is free to recognise the degree of harm or evil and to make provisions for the same. Making dissimilar provisions for one group of public sector undertakings does not per se make a law discriminatory as such. **It is well-settled that courts will not sit as superlegislature and strike down**

a particular classification on the ground that any under-inclusion, namely, that some others have been left untouched so long as there is no violation of constitutional restraints...... The same principle was reiterated by this Court in the case of State of Gujarat v. Shri Ambica Mills Ltd., Ahmedabad [1974 (3) SCR 760]. In that case, this Court was of the view that in the matter of economic legislation or reform, a provision would not be struck down on the vice of under-inclusion, inter alia, for the reason that the legislature could not be required to impose upon administrative agencies task which could not be carried out or which must be carried out on a large scale at a single stroke. It was further reiterated that piece meal approach to a general problem permitted by under-inclusive classific-ations, is sometimes justified when it is considered that legislatures deal with such problems usually on an experimental basis. It is impossible to tell how successful a particular approach might be, what dislocation might occur, and what situation might develop and what new evil might be generated in the attempt. Administrative expedients must be forged and tested. Legislators recognizing these factors might wish to proceed cautiously, and courts must allow them to do so....”

This court is of the opinion that the same considerations apply in the present case. **That, some employees could have benefitted more under the ACP benefits, if the MACP scheme had not been introduced from an earlier date, is no ground to hold so and compel an executive agency to grant the claimed benefits.”**

In aforesaid backdrop, the contention of Learned Counsel, is devoid of any merit and the Impugned Order(s) issued by the Respondents in withdrawing the benefits of ACP which were erroneously granted/released dehors the ACP Scheme/Rules; and the resultant orders refixing the pay [after withdrawing ACP] so as to grant the benefits as per the eligibility and entitlement for higher pay structure under the HPCS [Revised Pay] Rules does not calls for any interference.

<u>NO CHALLENGE TO OUSTER CLAUSES IN ACP SCHEMES:</u>

10(ix). Clause (i) of Old ACP Scheme dated 15.12.1998 and New ACP Scheme dated 09.08.2012 [Annexure A-3], which ousts the category of the petitioner [Technician], for availing benefits on completion of 4, 9 and 14 years service, for the reason, that petitioner was allowed/governed by three or more grade pay structures under Revised Pay Rules dated 01.09.1998, Revised Pay Rules w.e.f. 01.01.2006, then, once the petitioner has not laid a challenge to “ouster clauses”, then, in view of the express ouster of category of Technicians [in view of Three Tier Pay Structure presented-allowed for them], the orders dated 07.08.2013 [Annexure A-3], granting benefits dehors ACP Scheme was rightly withdrawn on 03.10.2018 [Annexure A-5] and on 18.10.2018to 28.10.2018.

10(x). For the reasons spelt out in preceding paras, the challenge under 'Claim A', in passing an order of withdrawing ACP benefits in terms of impugned Orders cannot pass this test of scrutiny. No enforceable right either exists or is claimable contrary to the Statutory Rules or applicable Scheme(s), therefore, the Impugned Orders withdrawing benefits extended dehors the Rules/ Scheme does not violate any right of petitioner. Accordingly, the Impugned Order dated 03.10.2018 [Annexure A-5] and orders dated 18.10.2018 [Annexure A-6] and orders dated 29.10.2018 [Annexure A-7] withdrawing the higher grade pay granted erroneously under ACP Scheme on completion of 4, 9 and 14 years service dehors the HPCS[Revised Pay] Rules of 1998 and 2009 [supra] and dehors the Old ACP and New ACP Schemes of 1998 and 2012 [supra], and in recasting/refixing the pay as per applicable Rules, needs no interference. All these Impugned Orders are accordingly upheld.

10(xi). Plea of petitioner is that ACP benefits were withdrawn in view of instruction dated 29.05.2014 [Annexure A-8] which is alleged to be discriminatory and illegal. The above plea is misconceived. Once ACP Scheme was not applicable in case of petitioner, as discussed above, then, the issuance of instruction dated 29.05.2014 [Annexure A-8] cannot be of any

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assistance or cannot have any prejudicial affect on the petitioner, whose rights and claim for pay fixation is to be governed by HPCS [Revised Pay] Rules and Three Tier Pay Structure thereon and not by ACPS or instruction clarifying ACPS which was not applicable to the petitioner."

11. So far as the claim regarding recovery is concerned, the issue also stands adjudicated by this Court in the case of **Ramesh Chand** *(supra),* which reads as under:-

"**ANALYSIS ON CLAIM [B]: RECOVERY:**

11. Now coming to the question of recovery, this Court is of the considered view, that the prayer of the petitioner, for restraining the respondents from effecting recovery, carries weight and the same is accepted, for the following reasons :-

11(i). Perusal of Annexure A-4 dated 07.08.2013, reveals that State Authorities have granted the benefit of New ACPS i.e. 4, 9 and 14 years of service to petitioner as Technician-Grade-II, by wrongly applying the New ACPS, which was not applicable to him. Even the reply-affidavit admits that benefit of New ACPS was wrongly extended to the petitioner. Reply-affidavit further indicates that the petitioner enjoyed benefit of higher grade pay under New ACPS on completion of 4, 9 and 14 years service, till his promotion as Junior Engineer on 03.10.2015 and even after his promotion as Junior Engineer from 03.10.2015 till his retirement on

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30.09.2018. Reply-Affidavit indicates that the benefits granted on 07.08.2013 [Annexure A-4], were withdrawn by Respondent No.3 on 30.10.2018 [Annexure A-5].

During the course of hearing, learned Counsel for petitioner places on record, copy of orders dated 21.02.2019[taken on record], whereby. after withdrawing ACP benefits, an amount of Rs.1,51,088/- [Rupees One Lakh Fifty One Thousand Eighty Eight] on account of wrong fixation due to grant of ACP benefits has been recovered the Gratuity of petitioner. The order of recovery dated 21.02.2019 [supra] cannot be sustained, in the eyes of law, for the following reasons :-

11(ii). Petitioner joined service as a Junior Technician [Mechanic-cum-Fitter] in 1994. During his service, respondent extended the benefit of New ACPS on completion of 4, 9 and 14 years service on the basis of a communication dated 09.08.2012 [Annexure A-3], despite the fact that petitioner was not to be governed or regulated by this communication. Admittedly, the petitioner was extended benefit of higher grade pay under New ACPS, till his promotion as Junior Engineer on 03.10.2015, till retirement on 30.09.2018. Admittedly, once the petitioner has neither misrepresented nor was a party to any fraud or erroneous pay fixation, such an eventuality, the wrong pay fixation dated 07.08.2013 [Annexure A-4], cannot be made the basis for effecting recovery from petitioner, being contrary to the mandate in Para 18(v) in the case of Rafiq Masih's.

11(iii). Recovery from a Class-III employee, as a Technician Grade-II and even Petitioner after his promotion as Junior Engineer he continued to be a Class-III employee since 03.10.2015 till retirement on 13.09.2018, in terms of office order dated 21.02.2019 [Taken on record] of Rs.1,51,088/- [Rupees One Lakh Fifty One Thousand Eighty Eight], from the Gratuity of petitioner is contrary to Para 18(ii) in Rafiq Masih, AIR 2015 SC 696and therefore the impugned recovery cannot stand the test of judicial scrutiny.

11(iv). Recovery dated 21.02.2019 from Gratuity affected by Respondents-Executive Engineer, Mechanical Division, HP PWD, Dhamashala, after having retired from service on 30.09.2018, is contrary to **Para 18(ii)** of the mandate of law, in the case of **Rafiq Masih [supra].**

11(v). Since the petitioner was not a party to wrong pay-fixation; but the higher pay was granted erroneously due to wrong interpretation of Rules/Schemes by the State Authorities, then the recovery dated 21.02.2019 of the amount of higher pay disbursed to petitioner due to wrong application of Rules/Schemes by respondents beyond five years from 2013 to 2018; then also, the recovery cannot be effected being contrary to the mandate in **Para 18(iii),** in the case of **Rafiq Masih [supra].**

11(vi). Moreover, on facts of instant case, the after retirement from Class-III employee, after a long lapse; amounts to penalizing petitioner for fault or inaction of respondents. Since the petitioner retired on 30.09.2018 and had attained the state of a pensioner on 10.01.2018 then, the recovery of gratuity cannot be affected on 21.02.2019 [as in Para 11(i) of this judgment] when neither any departmental proceedings nor any judicial proceedings were pending on date of retirement and even thereafter, therefore the Impugned recovery from gratuity, in contrary of Rule 9 of CCS [Pension] Rules and is certainly iniquitous, harsh and arbitrary and thus, the same cannot be recovered from the petitioner.

11(vii). Deprecating the recovery of the financial benefits extended due to wrong interpretation/ understanding of a Rule or Order, the Hon'ble Supreme Court in Thomas Daniel vs State of Kerala and Others, 2022 SCC OnLine SC 536, has held the following terms :-

> "12. In **Syed Abdul Qadir** v. State of Bihar excess payment was sought to be recovered which was made to the appellants-teachers on account of mistake and wrong interpretation of prevailing Bihar Nationalised Secondary School (Service Conditions) Rules, 1983. The appellants therein contended that even if it were to be held that the appellants were not entitled to the **benefit of additional increment on promotion, the excess amount should not be recovered from them, it having been paid without any misrepresentation or fraud on their part. The Court held that the appellants cannot be held responsible in such a situation** and recovery of the excess payment should not be ordered, especially when the employee has subsequently retired. The court observed that in general parlance, **recovery is prohibited by courts where there exists no misrepresentation or fraud on the part of the employee and when the excess payment has been made by applying a wrong interpretation/ understanding of**

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a Rule or Order. It was held thus:

"59. Undoubtedly, the excess amount that has been paid to the appellant teachers was not because of any misrepresentation or fraud on their part and the appellants also had no knowledge that the amount that was being paid to them was more than what they were entitled to. It would not be out of place to mention here that the Finance Department had, in its counter-affidavit, admitted that it was a bona fide mistake on their part. The excess payment made was the result of wrong interpretation of the Rule that was applicable to them, for which the appellants cannot be held responsible. Rather, the whole confusion was because of inaction, negligence and carelessness of the officials concerned of the Government of Bihar. Learned counsel appearing on behalf of the appellant teachers submitted that majority of the beneficiaries have either retired or are on the verge of it. Keeping in View the peculiar facts and circumstances of the case at hand and to avoid any hardship to the appellant teachers, we are of the view that no recovery of the amount that has been paid in excess to the appellant teachers should be made."

13. In **State of Punjab v. Rafia Masih (White Washer)*** Wherein this court examined the validity of an order passed by the State to recover the **monetary gains wrongly extended to the beneficiary employees in excess of their entitlements without any fault or**

misrepresentation at the behest of the recipient. This Court considered situations of hardship caused to an employee, if recovery is directed to reimburse the employer and disallowed the same, exempting the beneficiary employees from such recovery. It was held thus:

"8. As between two parties, if a determination is rendered in favour of the party, which is the weaker of the two, without any serious detriment to the other (which is truly a welfare State), the issue resolved would be in consonance with the concept of justice, which is assured to the citizens of India, even in the Preamble of the Constitution of India. The right to recover being pursued by the employer, will have to be compared, with the effect of the recovery on the employee concerned. If the effect of the recovery from the employee concerned would be, more unfair, more wrongful, more improper, and more unwarranted, than the corresponding right of the employer to recover the amount, then it would be iniquitous and arbitrary, to effect the recovery. In such a situation, the employee's right would outbalance, and therefore eclipse, the right of the employer to recover.

XXX XXX XXX

18. 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 hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from the employees belonging to **Class III** and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are **due to retire within one year**, of the order of recovery.

(iii) Recovery from the 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."

14. Coming to the facts of the present case, it is not contended before us that on account of the misrepresentation or fraud played by the appellant, the excess amounts have been paid. The appellant has retired on

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31.03.1999. In fact, the case of the respondents is that **excess payment was made due to a mistake in interpreting Kerala Service Rules** which was subsequently pointed out by the Accountant General.

15. Having regard to the above, we are of the view that an attempt to recover the said increments after passage of ten years of his retirement is unjustified.

16. In the result, the appeal succeeds and is accordingly allowed. The Judgment and order of the Division Bench dated 02.03.2009 and also of the learned Single Judge of the High Court dated 05.01.2006 impugned herein, and the order dated 26.06.2000 passed by the Public Redressal Complaint Cell of the Chief Minister of Kerala and the recovery Notice dated 09.10.1997 are hereby set aside. There shall be no order as to costs."

11(viii). A Co-ordinate Bench of this Court has set-aside similar recovery in Kishan Lal versus State of Himachal Pradesh [CWP No. 1360 of 2023] decided on 09.11.2023.

11(ix). While dealing with a similar fact-situation the Hon'ble Supreme Court in **Jagdish Prasad Singh vs State of Bihar and Others, 2024 SCC OnLine SC 1909,** decided on 08.08.2024, has deprecated recovery made from employee on wrong understanding of applicable Rules/Scheme in the following terms :-

"22. Similarly, this Court in **ITC Limited** v. State of Uttar Pradesh, held as under :-

"108. We may give an example from service jurisprudence, where a principle of equity is frequently invoked to give relief to an employee in somewhat similar circumstances. Where the pay or other emoluments due to an employee is determined and paid by the employer, and subsequently the employer finds, **(usually on audit verification) that on account of wrong understanding of the applicable rules by the officers implementing the rules, excess payment is made, courts have recognized the need to give limited relief in regard to recovery of past excess payments, to reduce hardship** to the innocent employees, who benefited from such wrong interpretation."

25. The Government Resolution dated 8th February, 1999 to be specific, the highlighted portion supra is amenable to the interpretation that it protects the status and pay of those employees who had received their time bound promotions prior to 31st December, 1995. As a consequence, the Secretary concerned, while rejecting the representation clearly misinterpreted and misapplied the said Resolution to the detriment of the appellant.

26. The learned Single Judge as well as the Division Bench of the High Court of Patna also seem to have fallen in the same error. In addition thereto, we are of the view that any step of reduction in the pay scale and **recovery from a Government employee would tantamount to a punitive action because the same has drastic civil as well as evil consequences**. Thus, no such action could have been taken against the appellant, more particularly, because he had been promoted as an ADSO, while drawing the pay scale of Rs.6500-10500 applicable to the post, way back on 10th March, 1991 and had also superannuated eight years ago before the recovery notice dated 15th April, 2009 was issued. The

impugned action directing reduction of pay scale and recovery of the excess amount is grossly arbitrary and illegal and also suffers from the vice of non-adherence to the principles of natural justice and hence, the same cannot be sustained.

27. The order dated 8th October, 2009 passed by the State Government directing reduction in the pay scale of the appellant from Rs.6500-10500 to Rs.5500-9000 w.e.f. 1st January, 1996 and directing recovery of the excess amount from him is grossly illegal and arbitrary and is hereby quashed and set aside. The impugned order dated 27th August, 2012 passed by the Division Bench of the High Court does not stand to scrutiny and is hereby quashed. Therefore, the appellant shall continue to receive the pension in accordance with the pay scale of Rs.6500-10500."

Thus, the recovery cannot be effected from an employee due to wrong interpretation or misapplication or wrong construction of Rules/ Schemes by an employer. Such action would amount to penalizing an employee for inaction(s) of an Employer. Permitting such recovery shall grant leverage to the respondents to justify their wrongs, inactions, negligence or faults. Recovery when, petitioner was not party to any misrepresentation or fraud is illegal. Recovery from petitioner, a Class-III Employee, after relevant and when, the excess payments were made for five years; and by passing adversarial orders without notice/hearing was stigmatic, visiting petitioner with civil consequences. Even the orders dated 21.02.2019, affecting recovery of Rs.1,51,008/- [Rupees One Lakh Fifty One Thousand Eighty Eight], from the Gratuity of petitioner in violation of Rule 9 of CCS [Pension] Rules, when, neither any departmental nor any criminal proceedings were initiated against petitioner on date of retirement, cannot stand the test of judicial scrutiny, when it is iniquitous. Accordingly, the Impugned recovery is illegal, unsustainable, arbitrary and violative of Article 14 and 16 of the Constitution of India."

12. Even the issue as to whether the benefits assigned to an employee due to wrong application of Rules or wrong application or wrong interpretation of the Rules, which subsequently turned out to be otherwise, has also been deprecated by the Hon'ble Supreme Court in **Jogeswar Sahoo & Others versus District Judge, Cuttack & Others, 2025 SCC OnLine SC 724,** which reads as under:-

> "11. In the case at hand, the appellants were **working on the post of Stenographers when the subject illegal payment was made to them.** It is not reflected in the record that such payment was made to the appellants on account of any fraud or misrepresentation by them. It seems, when the financial benefit was extended to the appellants by the District Judge, Cuttack, the same was subsequently not approved by the High Court which resulted in the subsequent order of recovery. **It is also not in dispute that the payment was made in the year 2017 whereas the recovery was directed in the year 2023.**

> **However, in the meanwhile, the appellants have retired in the year 2020.** It is also an admitted position that the appellants were not afforded any opportunity of hearing before issuing the order of recovery. The appellants having superannuated on a ministerial post of Stenographer were admittedly not holding any gazetted post as such applying the principle enunciated by this Court in the above quoted judgment, the recovery is found unsustainable.
>
> 12. For the aforestated, we are of the considered view that the appeal deserves to be allowed. Accordingly, we allow the appeal and set aside the order of the High Court and in consequence the orders dated 12.09.2023 and 08.09.2023 by which the appellants were directed to deposit the excess drawn arrears are set aside."

12(i). Pertinently, some of the petitioners in instant case are retirees. Having retired from service the Impugned Order of recovery shall certainly dislodge the rights and interest of the retirees. Even, Hon'ble Supreme Court in **Panchayat & Rural Development Department and Others versus Santosh Kumar Shrivastava,** *2025 SCC OnLine SC 2042,* has mandated that the legal retiral benefits like pension, gratuity and leave encashment can neither be curtailed, restricted, withdrawn or recovered without authority of law. *In the instant case*, nothing has been pointed out by the Learned State Counsel that the State Authorities before issuing the orders dated 23.03.2019 *[Annexure R-3]* and resultant recovery orders dated 27.03.2019 *[Annexure A-1, Colly]* have complied with the mandate of law by giving a prior notice and after affording a personal hearing and in case the facts were disputed after holding an inquiry in the matter.

12(ii). Moreover, the retiral benefits are legal entitlements which constitute the property under Article 300-A of the Constitution of India. In this backdrop, the property and the legal entitlements could not be denied, curtailed, restricted withheld or recovered without authority of law. Learned State Counsel has failed to point out *"any law"* which permits the recovery so as to confer a premium and leverage on the State to effect recovery for the inactions and negligence in wrongfully advancing the ACP benefits which subsequently came out to be inadmissible to the petitioners herein.

12(iii). Deprecating the recovery from a retiree as mandated by the Hon'ble Supreme Court in **Panchayat & Rural Development Department and Others versus Santosh Kumar Shrivastava,** *2025 SCC OnLine SC 2042,* reads as under:-

> "8. It has long been held that the payment of retiral dues/gratuity/ pension is not a matter of bounty but in fact a matter of right of every employee, should there be some rule or statute from where the right may originate.
>
> 9. This makes it clear that the Courts below were correct in holding that <u>there was no justification for the appellants having not paid the dues rightly belonging to the respondent to him even after the passage of almost three years after the retirement.</u> **We may also observe that there was no occasion whatsoever for the Appellant to have conducted re-fixation of pay after retirement of the Respondent and then proceed to recover the excess amount from the retiral dues payable to the latter.** This is a well-settled position in law. A Bench of 3 learned Judges in Syed Abdul Qadir v. State of Bihar....
>
> 10. Insofar as the **Appellants position that failure to vacate is the reason that retiral dues were not being granted to him,** we fail to see the nexus between these two aspects. ....
>
> 11. In essence, what the Appellants did before the High Court was to blame the Respondent for the delay in him receiving benefits rightly owed to him. We cannot accept this position. <u>Pension and other retiral dues are benefits that have been earned by an employee due to the service</u>

rendered to the institution paying the pension/other retirement benefits. The grant of a residence corresponds to the position held at the time by such employee. The width of these two aspects is separate and distinct. Pension and retirement benefits accrue from a much wider base as the culmination of all efforts, across employment whereas the latter is only for a limited time, till such a person is holding that position. **The latter cannot obstruct or defeat the former. The Appellant cannot be allowed to withhold a duly accrued right on this count.**

12. Since the delay is entirely on part of the Appellant, and no reasonable explanation acceptable to law is forthcoming except for the **attempt to hold back pensionary benefits as a sword on the Respondent's head for not having vacated his government allotted accommodation,** in the facts of this case we see no error in the order of the learned single Judge awarding interest to the Respondent.

13. The appeal is accordingly dismissed. However, there shall be no order as to cost.

Pending application(s) if any, shall stand closed."

13. Another important aspect needs to be addressed in the instant case.

13(i). While dealing with the matter, another aspect needs to be addressed. State Authorities have certainly come up with different stands in respect of similarly placed incumbents. Reference to the orders passed by this Court on 29.10.2025 and Instructions dated 10.0.2025 furnished by the State Authorities indicate that this Court has passed a judgment in **CWP No.1702 of 2024**, titled **Ashwani Kumar versus State of Himachal Pradesh & Others**, on 25.07.2024, whereby in similar fact-situation relating to the employees who were Technicians as in this case, the recovery was quashed and pursuant to the filing of **Execution Petition No.394 of 2025**, titled **Ashwani Kumar versus State of Himachal Pradesh & Others**, the State Authorities have admitted that ACP benefits or higher pay was wrongly given by mistake of Department and there was no misrepresentation by the employees and therefore, it was not a fit case to file SLP or any other proceedings in the matter.

13(ii). Similarly, it is also transpired that the State Authorities have furnished Instructions to this Court stating therein that the issue regarding recovery cannot be implemented *for the reason* that though the Division Bench of this Court in **LPA No. 410 of 2024**, titled **State of Himachal Pradesh &**

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Others versus Krishnu Ram, on 02.12.2024 has quashed the recovery but the SLP was pending.

The Instructions furnished by the State that SLP was pending was not in tune with the factual aspect at the relevant time. In view of the fact that no SLP has in fact been filed by the State at that particular point of time. However, subsequently, the SLP was filed but the **SLP(C) Diary No.66398 of 2025,** titled **State of Himachal Pradesh and Others versus Krishnu Ram**, was dismissed by the Hon'ble Supreme Court on 15.12.2025, which reads as under:-

> "Delay condoned.
>
> 2. Having considered the matter in its entirety, we do not find any merit warranting interference by this Court. Accordingly, the Special Leave Petition stands dismissed.
>
> 3. Pending application(s), if any, shall stand disposed of."

In this backdrop, this Court is of the considered view that once recovery of excess amount of ACP incentives which were erroneously released by the Department to petitioners and other Technicians was not recoverable and said recovery was quashed by this Court, in the case of titled **Ashwani Kumar**

versus State of Himachal Pradesh & Others *[CWP No.1702 of 2024]* and **Ramesh Chand versus State of Himachal Pradesh & Ors.** *[CWPOA No.6192 of 2020]* by this Court and even the judgment in **LPA No.410 of 2024**, titled **State of Himachal Pradesh & Others versus Krishnu Ram**, has been upheld by the Hon'ble Supreme Court on 15.12.2025, therefore, this Court sees no reason for not extending the similar benefits.

Accordingly, as per the findings recorded in the judgment **Ramesh Chand & Krishnu Ram** *(supra)*, the re-fixation of pay of the petitioners as Technicians i.e. [Junior Technician, Technician Grade-I & Technicians Grade-II, respectively] after withdrawing the inadmissible ACP benefits as in *[Annexure R-3,* dated 23.03.2019] is upheld, but the recovery ordered in pursuance to the re-fixation of pay leading to recovery in case of petitioners in Lead Case [CWPOA No.6702 of 2020], on 27.03.2019 *[Annexure A-1, Colly]* *is quashed and set aside*.

14. Since the legal issue involved in all connected cases is *pari materia*, therefore, the directions contained in judgment here-in-below in Lead Case shall *mutatis mutandis* apply to all the connected cases.

DIRECTIONS:

15. In view of above discussion and for the reasons recorded hereinabove, the instant petitions are **partly allowed** *in the following terms:*

(i). Orders passed by State Authorities in withdrawing the ACP benefits released to the petitioners *dehors* the Pay Rules and contrary to ACP Scheme dated 09.08.2012 is upheld, as mandated in the judgment in **Ramesh Chand and Krishnu Ram** *(supra)*;

(ii). Orders dated 23.03.2019 *[Annexure R-3]* withdrawing ACP benefits leading to re-fixation of pay is upheld;

(iii). Recovery of excess amount of ACP benefits wrongly advanced/released and consequential adversarial recovery orders dated 27.03.2019 *[Annexure A-1, Colly],* are quashed and set aside;

(iv). State Authorities are restrained from effecting recovery from the petitioners;

(v). State Authorities are directed to refund the recovered amount to the petitioners, within two months from today;

(vi). Non-refunding of amount shall make the respondents liable for interest on the amount recovered but not refunded at the rate of 6% per annum after expiry of two months till actual refund;

(vii). Though Impugned re-fixation orders are upheld; and recovery orders are quashed; but the directions qua re-fixation orders in connected cases shall be treated as upheld; *and* recovery orders shall stand quashed and set aside in all connected cases;

(vii). Parties shall bear respective costs.

In the aforesaid terms, the instant petitions along with all pending application(s) are disposed of accordingly.

(Ranjan Sharma)
Judge

January 09, 2026
[Shivender]