

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

**CWP No.7541 of 2025
Decided on 05th May, 2026**

Manjeet Singh Guleria

...Petitioner

Versus

State of Himachal Pradesh and others

...Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

¹Whether approved for reporting?

For the petitioner: Mr. Anil Jaswal, Advocate.

**For the respondents: Mr. Rajpal Thakur, Additional
Advocate General, for respondents
No.1 to 4.**

**Ms. Komal Chaudhary, Advocate, for
respondent No.5.**

Ajay Mohan Goel, Judge (Oral)

By way of this writ petition, the petitioner has, *inter alia*, prayed for the following reliefs:-

- a) *“That writ in the nature of certiorari may kindly be issued, whereby quashing and setting aside the impugned order dated 11.04.2025, Annexure P-3, impugned orders dated 11.04.2025, Annexure P-4 (colly.) issued by the respondent No.3, being illegal and arbitrary.*
- b) *That writ in the nature of mandamus or any other appropriate writ order or directions may be issued to directing the respondents to redraw and fix the scale of the petitioner in the*

corresponding scale of Rs.96,700/- as is being drawn by him before the issuance of the aforementioned impugned orders.

c) *That writ in the nature of mandamus may kindly be issued, whereby directing the respondents to grant the entire benefits of higher pay benefits including increments, as per FR-22(1)(a)(i) from due date as per the directions passed by this Hon'ble Court in the case of the petitioner in light of the judgment passed by this Hon'ble Court in CWP No.842 of 2017, titled as State of H.P. versus Sardari Lal."*

d) *That a writ in the nature of mandamus may kindly be issued in favour of the petitioners and against the respondents with the direction to refund the amount recovered by the respondents from the petitioners and to pay the due and admissible increment in favour of the petitioners in the interest of justice"*

2. The grievance of the petitioner is that in terms of Annexures P-3 and P-4, action stands initiated by the respondents to effect recoveries from him purportedly on the ground that there were some overpayments made to the petitioner while in service.

3. Learned counsel for the petitioner submitted that the petitioner retired as Principal from Government Senior Secondary School Daroka at Barail, District Kangra, H.P. on 31.08.2023. He submitted that Principal is a Class-III post and during the entire service of the petitioner, he did not commit any

act of omission or commission which resulted in any overpayment to him as alleged by the respondents. Recovery of the alleged overpayment, that too after the retirement of the petitioner is not sustainable in the eyes of law, more so, in the light of the judgment of the Hon'ble Supreme Court in State of Punjab and others versus Rafiq Masih (White Washer) and others.

4. On the other hand, learned Additional Advocate General by referring to the reply filed by the State has submitted that the petitioner was promoted to the post of Headmaster as per the seniority of the Trained Graduate Teachers and not from the feeder category of Lecturers. Accordingly, the pay of the petitioner was erroneously fixed which resulted in overpayments having been made to him. Therefore, when the said discrepancy was detected, immediately steps were taken for the recovery of the overpayments made to the petitioner. Learned Additional Advocate General submitted that overpayments resulted on account of the erroneous fixation of the pay of the petitioner after his promotion as a Headmaster in terms of the provisions

of FR-22(1)a(1) which is now substituted as Rule 11 vide H.P. Government Department of Finance No.Fin.(PR)B(7)-1/2009 dated 26.08.2009 and as the petitioner was not entitled for the benefit of FR 22, therefore, the recovery has been rightly effected.

5. I have heard learned counsel for the parties and have also carefully gone through the record as well as documents appended therewith.

6. Herein, it is not in dispute that the petitioner retired as a Principal from Government Senior Secondary School Daroka at Barail, District Kangra, H.P. on 31.08.2023. As upto the date when the petitioner was in service, no action stood initiated against him for the recovery of any alleged overpayments made to him. The impugned recovery process was initiated after the superannuation of the petitioner.

7. Hon'ble Supreme Court of India in State of Punjab and others versus Rafiq Masih (White Washer) and others (2015) 4 Supreme Court Cases 334 has been pleased to *inter alia*, hold that 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. Yet, Hon'ble Supreme Court has been pleased to cull out few situations in Para-18 of the judgment, wherein, recoveries by the employers have been held to be "impermissible in law". This includes recoveries from employees belonging to Class-III and Class-IV categories and recoveries made from retired employees or employees who are due to retire within one year of the order of recovery.

8. In the present case, as admittedly, the recoveries were ordered after the petitioner had superannuated, the same is hit by the judgment of the Hon'ble Supreme in State of Punjab and others versus Rafiq Masih (White Washer) and others (supra), in terms whereof, recovery from a retired employee is held to be "impermissible in law".

9. Besides this, herein the petitioner happened to be a Class-III employee till his superannuation and recovery from a Class-III employee has also been held to be impermissible in law by the Hon'ble Supreme Court of India. It is not the case of the State that the said overpayment of amount was made to the petitioner on account of his acts of omission and commission or

that he was the one who initiated the process etc., which resulted in the overpayment of certain amounts to him. Therefore, obviously, even if it is to be assumed that certain overpayments were made to the petitioner, then, the same were mistakenly made by the employer.

10. In said case, obviously, as the recovery from a retired employee and a Class-III employee is impermissible in law, the act of the respondents of ordering recoveries from the petitioner in terms of impugned Annexures P-3 and P-4, dated 11.04.2025 respectively is held to be bad in law. Annexures P3 and P-4 are quashed and set aside. Respondent-Department is directed not to effect any recoveries from the petitioner on the alleged ground of overpayment made to him. Any recovery already effected on the strength of the impugned Annexures be refunded back to the petitioner.

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

(Ajay Mohan Goel)
Judge

May 05, 2026
(Vinod)