HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

****

CWP-17635-2022 (O&M)

****

Ishwar Singh Sangwan ... Petitioner

VS.

State of Haryana & Ors. ... Respondents

****

1.	Judgment reserved on	24.03.2026
2.	Judgment pronounced on	12.05.2026
3.	Judgment uploaded on	15.05.2026
4.	Whether operative or full judgment	Full
5.	Delay in pronouncement of full judgment and reasons, if any	NA

****

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

****

Present: Mr. Karan Bhardwaj, Advocate and
Mr. Pardeep Kumar, Advocate for the petitioner

Mr. Rahul Dev Singh, Addl. AG Haryana

****

Sandeep Moudgil, J.

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, *inter alia*, for issuing a writ of certiorari for quashing the order dated 27.07.2022 (Annexure P3) to the extent its orders recovery from pension of petitioner and withholding of arrears of pay. He seeks a direction to the respondents to release the arrears of pay and pension to the petitioner along with consequential benefits.

Contentions raised on behalf of the petitioner

(2). Learned counsel for the petitioner submits that the petitioner retired as Executive Engineer on 31.03.1997 and had filed CWP-14275-2021 before this Court seeking the pay scale of Rs.13500-17250 w.e.f. 01.01.1996. During the pendency of that writ petition, the above-said relief was granted to the petitioner and the pay fixation was done in the grade of Rs.4100-5300 w.e.f. 27.09.1994 vide order dated 26.07.2022 (Annexure P2). He submits that the very next day, vide impugned order dated 27.07.2022 (Annexure P3), recovery was ordered from 01.05.1989 to 31.12.1995 of Rs.72900/- and the amount of arrears from 01.01.1996 to 31.03.1997 was assessed at Rs.9575 besides difference of DCRG of Rs.11,137/-, from his pension.

(3). He contends that the above said action has been taken after 25 years of retirement of the petitioner as on one hand, the respondents have granted pay fixation in the grade of Rs.4100-5300 and on the other hand, they have ordered recovery purportedly on the ground that the increments were given on account of an error which is against the dictum of the Apex Court passed in ***State of Punjab & Ors. vs. Rafiq Masih & Ors. (2015) 4 SCC 334***.

Counter by the respondents

(4). Reply has been filed by the respondent wherein it has been averred that the petitioner retired from service w.e.f. 31.03.1997 while drawing pay in the pre-revised selection grade of Rs. 4100-5300/-, which had been allowed in view of Government instructions dated 02.06.1989, as the subsequent limitation of 20% of cadre posts of AE/AEE/SDEs imposed vide instructions dated 16.05.1990 was under challenge before the Courts and operation thereof had been stayed in certain matters and as such, the petitioner, being fully aware of the position, voluntarily undertook on 01.01.1997 and 22.09.1998 (Annexure R-1 & R-2) to effect recovery of any over-payment and also agreed to refund any excess amount found payable to him on account of discrepancies noticed later. However, subsequently, the pay of the petitioner was refixed in the pay scale of Rs. 13500-17250/- w.e.f. 01.01.1996 vide order dated 26.07.2022 (Annexure P-2), it was detected that the effect of office letter dated 11.10.2002 had never been given in his earlier pay fixation and that he had been continuously drawing inadmissible pay and pension higher than his actual entitlement due to pendency of litigation and omission of the then authorities.

(5). Heard learned counsel for the parties and this Court kept reserved the judgment on 24.03.2026.

Analysis & Finding

(6). The petitioner retired as Executive Engineer on 31.03.1997 and, in CWP-14275-2021, claimed the revised pay scale of Rs.13500-17250/- w.e.f. 01.01.1996. During the pendency of that petition, the respondents themselves extended this relief and refixed his pay in the pre-revised selection grade of Rs.4100-5300/- w.e.f. 27.09.1994, with the corresponding revised scale of Rs.13500-17250/- w.e.f. 01.01.1996, vide order dated 26.07.2022. The same exercise revealed that, on account of non-implementation of the departmental letter dated 11.10.2002 and litigation-driven continuance of a higher pay, the petitioner had been drawing pay and pension in excess of his lawful entitlement for the period 01.05.1989 to 31.12.1995 and consequentially in arrears and DCRG as well. The impugned order dated 27.07.2022 therefore merely quantified and ordered recovery of the excess amount so detected from his retiral benefits.

(7). In para 11 of the written statement, which goes to the root of the matter, it has been averred that the petitioner has already been granted the revised scale of Rs.13500-17250/- w.e.f. 01.01.1996 vide order dated 26.07.2022 and has no objection to the refixation “qua the part allowing him pay scale of Rs.13500-17250/-”, but chooses to object only to that portion of the refixation which corrects his pre-01.01.1996 pay, despite his subsisting obligation under the undertaking dated 22.09.1998 (Annexure R-2). The refixation is an exercise in rectifying a wrong pay fixation allowed to continue due to pendency of court cases that after culmination of the dispute, the competent authority, vide letter dated 11.10.2002, allowed selection grade of Rs.4100-5300/- w.e.f. 27.09.1994 instead of 01.05.1989, but as the petitioner had already superannuated on 31.03.1997, his case remained unnoticed and was not refixed at that time; and that only upon generalisation of the pay scale of Rs.13500-17250/- w.e.f. 01.01.1996 vide U.O. letter dated 28.04.2022 and the resultant refixation exercise, it came to light that he was drawing excess pay, whereupon his pay was rectified and an excess amount was found recoverable, in respect of which he had already tendered undertakings dated 01.01.1997 and 22.09.1998 (Annexures R-1 and R-2).

(8). In the present case, the petitioner, a Class-I officer, consciously furnished two specific undertakings, authorising recovery of over-payments from his pay/pension and agreeing to refund any excess on subsequent discrepancy. The State of Haryana has, by instructions dated 20.01.2017, already clarified on the strength of the law declared in ***Rafiq Masih*** case that an employee who has submitted such an undertaking is bound by it and is required to refund the excess amount and where an employee has, while opting for a revised pay scale, agreed in writing to refund any excess payment later found due, he cannot turn around and resist recovery and as such, the employer is legally entitled to enforce recovery on the strength of that undertaking.

(9). In these circumstances, no enforceable right exists in petitioner’s favour to retain public funds to which he was never entitled merely because the

2026:PHHC:077024

error continued for a long period. The writ petition, being devoid of merit, is accordingly dismissed.

(10). Pending application(s), if any, stands disposed of.

(11). Ordered accordingly.

12.05.2026
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?	*:*	***Yes/No***
2. Whether reportable?	*:*	*Yes/No*