



**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - A No. - 18369 of 2023**

Lal Bahadur Gupta

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

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Counsel for Petitioner(s) : Archana Singh, Bramh Narayan Singh  
Counsel for Respondent(s) : C.S.C.

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**Court No. - 34**  
(SL No.20)

**HON'BLE ANISH KUMAR GUPTA, J.**

1. Heard Sri Brahm Narayan Singh, learned counsel for the petitioner and Sri Gaurav Singh, learned Standing Counsel for the State.
2. By means of the instant writ petition, petitioner has challenged the notice/ order dated 12.7.2023, whereby the respondent has deduced an amount of Rs. 1,76,165/- from the retiral dues of the petitioner.
3. Briefly stated the facts of the case are that the petitioner was appointed as 'Office Peon' in the department of the Provincial Armed Constabulary (P.A.C. in short) in U.P. Police and the petitioner has retired. After his retirement, before releasing the retiral dues to the petitioner on 12.7.2023, respondents have asked for an undertaking to be given by the petitioner for deduction of Rs. 1,76,165/- which was an amount paid in excess due to the wrong revision of the pay scale to the petitioner during his service.
4. Learned counsel for the petitioner submits that since the petitioner was a Class-IV employee and has no role to play in such fixation of pay scale, thus any excess amount paid to the petitioner during his service due to such wrong revision of pay scale cannot be realised from the petitioner in the light of the judgment of the the Hon'ble Apex Court in the case of **State of Punjab vs. Rafiq Masih (White Washer) etc**, reported in (2015) SCC (4) 334. The relevant paragraph of the aforesaid judgment i.e., paragraph-18 reads as follows:-

*"(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.*

*Admittedly, there does not appear to be any case of misrepresentation or fraud on the part of the petitioners in the matter, nor the learned standing counsel has raised any such issue not it has been indicated in the written instructions which are on record."*

5. Learned counsel for the petitioner has drawn our attention to the counter affidavit filed on behalf of the State and has pointed out that pursuant to the notice issued on 12.7.2023, consent was given by the petitioner due to which the aforesaid amount of Rs.1,76,165/- was recovered from the petitioner. Thus learned counsel for the respondents, relying upon the judgment in the case of **High Court of Punjab and Haryana vs. Jagdev Singh**, (2016) 14 SCC 267 submits that since the said amount was deducted pursuant to the consent granted from the petitioner now he cannot claim for refund of the said amount.

6. Having heard rival submissions made by the learned counsel for the parties, this Court has carefully gone through the records of the case.

7. It is an admitted fact that the petitioner has retired and thereafter when he claims for retiral dues, a notice was issued on 12.7.2023 and under the compelling circumstances to get release of the retiral dues, he was forced to give consent for the aforesaid deduction. It is also an admitted fact that the petitioner has no role to play for wrong fixation of pay scale of the

petitioner being a Class-IV employee. The aforesaid situation is covered in the judgment of **Rafiq Masih (supra)**. So far as the judgment of **Jagdev Singh (supra)** is concerned, that relates to undertaking given by the petitioner at the time of such wrong revision of the pay scale and not after retirement, therefore, any undertaking taken after the retirement before payment of the retiral dues cannot bind the petitioner.

8. In view thereof, respondent no. 3 is directed to refund the aforesaid deducted amount of Rs. 1,76,165/- to the petitioner alongwith interest at the rate of 8% per annum from the date since when the aforesaid amount was withheld till the time of actual payment, within a period of four weeks from today. Respondent No. 3 shall file a compliance affidavit, by next date of listing.

9. Put up this matter on **19.5.2026**.

**(Anish Kumar Gupta,J.)**

**April 6, 2026**

n.u.