



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

**CWP No.7217 of 2025  
Date of Decision:17.03.2025**

Union of India and others

...Petitioners

Versus

Bihari Lal & another

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA  
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Mohit Garg, Advocate appearing for  
Ms. Ashima Mor, Advocate,  
for the petitioners.

\* \* \* \*

**SANJEEV PRAKASH SHARMA J.(Oral)**

The present writ petition has been filed assailing the order dated 08.07.2024 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh (for short, 'CAT') in the OA No.60/1454/2018 whereby the CAT has reached to the findings that the order of recovery from the salary of the applicant (respondent No.1 herein) was made without effecting opportunity of hearing to him.

2. It is an admitted position that respondent No.1 is a Class-III employee and relying on the judgment passed by the Supreme Court in **State of Punjab and others vs. Rafiq Masih (White Washer) etc. AIR 2015 SC (Civil) 939**, the CAT has directed for refund of the wrongful recovery made from respondent No.1.



3. Learned counsel appearing for the UOI submits that once the recovery has already been effected the judgment of **Rafiq Masih (supra)** would have no application and the recovery already made could not have been directed to be refunded.

4. We find the interpretation taken by the petitioner-UOI to be wholly erroneous and misconceived as once a judgment is passed by the Supreme Court, it has a retrospective effect as held by the Supreme Court in **Rafiq Masih (supra)**. We also noticed that the judgment passed by the Supreme Court **Rafiq Masih (supra)** has been reasserted in “**Thomas Daniel Vs. State of Kerala and others**”, (2022) 4 S.C.R. 606, which is reproduced as under:-

*“(9) This Court in a catena of decisions has consistently held that if the excess amount was not paid on account of any misrepresentation or fraud of the employee or if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order which is subsequently found to be erroneous, such excess payment of emoluments or allowances are not recoverable. This relief against the recovery is granted not because of any right of the employees but in equity, exercising judicial discretion to provide relief to the employees from the hardship that will be caused if the recovery is ordered. This Court has further held that if in a given case, it is proved that an employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, the courts may on the facts and circumstances of any particular case order for recovery of amount paid in excess.”*



5. Further, we noticed that the order of recovery was passed without giving any opportunity of hearing and was, thus, *void ab initio*. In view thereto, the same was required to be set-aside. Once the orders are passed wrongfully, the refund directions cannot be said to be wrongful. The order passed by the CAT, therefore, does not warrant any interference.

6. Accordingly, the writ petition is dismissed.

**(SANJEEV PRAKASH SHARMA)**  
**JUDGE**

**March 17, 2025**  
seema

**(MEENAKSHI I. MEHTA)**  
**JUDGE**

*Whether speaking/reasoned:*      *Yes/No*  
*Whether Reportable:*              *Yes/No*