



CWP-15484-2023 (O&amp;M)

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

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CWP-15484-2023 (O&M)  
Date of decision : 13.05.2025

Avtar Singh

... Appellant

Versus

Central Administrative Tribunal, Chandigarh and others

.. Respondents

**CORAM : HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA  
HON'BLE MR. JUSTICE H.S. GREWAL**

Present:- Mr. Amandeep Saini, Advocate for the petitioner.

Mr. Vipul Aggarwal, Senior Panel Counsel  
for respondents No.2 to 5.

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

The present petition has been filed assailing the order dated 03.05.2021 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh (for short, 'CAT') wherein the petitioner challenged the order passed by respondent No.5 dated 18.03.2019 (Annexure A-1) vide which the following recovery from the gratuity of the petitioner was sought to be made:-

(i) RELHS	=	Rs.33,900/-
(ii) Overpayment of pay	=	Rs.83,085/-
(iii) Commercial Debit held up	=	Rs.50,000/-

The commercial debt of Rs.50,000/- which was held up was released to him on 23.11.2017. Thus, the recovery is only of Rs.33,900/- against RELHS and Rs.83,085/- for overpayment of pay.

2. We are of the firm view that in terms of the judgment passed by the Hon'ble Supreme Court in **State of Punjab and others versus Rafiq Masih (White washer)**, AIR 2015 SC (Civil) 939 and the subsequent judgment passed by the Supreme Court in **Thomas Daniel versus State of**



Kerla and others, 2022 INSC 498 and in Jogeshwar Sahu versus District Judge Cuttack, 2025 INSC 449, the recovery could not have been effected from a retired employee regarding overpayment of pay. The recovery of Rs.33,900/- due to RELHS is a separate amount which learned counsel for the petitioner does not press for refund.

3. We find that the learned Central Administrative Tribunal has erred in looking into the service record of the petitioner where there are punishments imposed upon him, to allow recovery to be done from his gratuity. Punishments awarded to the petitioner would be separate category all together and making recoveries from the pension or gratuity is a different aspect.

4. In **Rafiq Masih (White washer)'s case** (supra), the Supreme Court has held as under:-

*“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 concerned employee. If the effect of the recovery from the concerned employee 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.”*

5. Similarly in **Thomas Daniel's case** (supra), the Supreme Court has held 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.”*

6. The order passed by the Central Administrative Tribunal cannot be sustained and the order dated 03.05.2021 is quashed and set aside. The respondents are directed to refund the amount within a period of three months.

7. The writ petition is allowed.

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

**(H. S. GREWAL)**  
**JUDGE**

**13.05.2025**  
A.Kaundal

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No