



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

255

**CWP-4949-2023 (O&M)**  
**Date of decision: 13.10.2025**

Bala Devi

....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam through its Managing Director and  
others

....Respondents

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Ashok K. Sharma, Advocate  
for the petitioner.

Ms. Nihar Bala, Advocate  
for Mr. Harmanjot Singh Gill, Advocate  
for the respondents.

**HARPREET SINGH BRAR J. (Oral)**

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the impugned demand notice-cum-recovery order dated 16.09.2022 (Annexure P-2) whereby an amount of Rs.3,16,694/- has been ordered to be recovered from the petitioner on account of excess payment of pension w.e.f. 01.01.2016 to 14.08.2022 onwards. Further prayer has been made to stay the operation of the impugned demand notice-cum-recovery order dated 16.09.2022 (Annexure P-2) vide which recovery of Rs.4,353/- per month (monthly installment) has been ordered. Another prayer has been made to refund



the already recovered amount (from November, 2022) with interest @ 18% p.a. deducted from the account of the petitioner.

2. The short controversy involved in the present case is with regard to the recovery sought to be made from the petitioner on account of alleged excess payment of family pension for the period from 01.01.2016 to 14.08.2022, as per the impugned demand notice-cum-recovery order dated 16.09.2022 (Annexure P-2), whereby a sum of Rs.3,16,694/- has been directed to be recovered, and monthly deductions of Rs.4,353/- have been initiated.

3. Learned counsel for the petitioner *inter alia* contends that there was no misrepresentation or fraud on the part of the petitioner. The impugned recovery order is illegal, arbitrary and not sustainable in the eyes of law, in view of the law laid down by the Hon'ble Supreme Court of India in **Civil Appeal No.11527 of 2014**, titled as ***State of Punjab and others vs Rafiq Masih***. The petitioner, being the widow of an Assistant Lineman who died in service in 2002, was granted family pension in accordance with applicable rules, and had no role in fixation of pension. Thus, she cannot be penalised for any excess payment arising out of administrative errors.

4. Learned counsel for the petitioner further submits that monthly recovery of Rs.4,353/- was started from November 2022, and despite no fault on the part of the petitioner, total amount of Rs.3,16,694/- has already been recovered. The recovery was later stayed by this Court vide order dated 14.03.2023.



5. It is also submitted that the case of the petitioner is squarely covered by the law laid down in ***Rafiq Masih's case (supra)*** and by the judgment passed by this Court in **CWP No.24646 of 2017** titled as ***Rama Rani vs Union of India and others***, decided on **09.05.2022**, wherein recovery from similarly situated family pensioners was held to be impermissible.

6. *Per contra*, learned counsel for the respondents submits that the respondent/Nigam was justified in ordering the recovery, asserting that the excess pension payment was made to the petitioner by the concerned authorities, and hence, the recovery is valid in light of the judgment of the Hon'ble Supreme Court in ***High Court of Punjab and Haryana vs Jagdev Singh, 2016(4) SCT 286*** and the judgment of this Court in **CWP-25821-2016** titled as ***Bal Krishan Sharma vs State of Haryana***, decided on **07.07.2022**.

7. I have heard the learned counsel for the petitioner as well as the respondent(s) and gone through the case file with their able assistance.

8. It is not in dispute that the petitioner is a family pensioner and no material has been brought on record by the respondent/Nigam to show that any fraud or misrepresentation was committed by the petitioner while receiving the pension. On the contrary, the explanation furnished is that excess pension payment was made to the petitioner, which is an administrative lapse. In that eventuality, the petitioner cannot be blamed as she has not mislead the respondents in order to



secure higher amount of pension. The Hon'ble Supreme Court in **Rafiq Masih's case (supra)** has clearly held that recovery from retired employees or their family pensioners especially when there is no fraud or misrepresentation, is impermissible in law. The relevant extract of the said judgment, reads as follows:

*12. "...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. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:*

*(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.*



9. Further, the reliance placed by the respondents on ***Jagdev Singh's case (supra)*** is totally misplaced as the facts are distinguishable. A perusal of the paper book reveals that Annexure R-2 is on record and the petitioner has put her thumb-mark on the same. Admittedly, the respondent could not controvert the fact that the undertaking furnished in Annexure R-2 is in English and the petitioner is an illiterate lady, who has put her thumb-mark on the undertaking. Nothing has been pleaded or brought to the notice of this Court that the contents of undertaking were fully explained to her before obtaining her thumb-marks. The excess amount which was ordered to be recovered is on account of the mistake detected by the concerned bank and no misrepresentation or fraud is seen on part of the petitioner towards overpayment and as such, recovery of excess amount has already been paid to the petitioner is not sustainable in view of ***Rafiq Masih (supra)***.

10. Reliance in this regard can be placed on ***Santosh Devi vs. Uttar Haryana Bijli Vitran Nigam (UHBVN) and others CWP-11809-2022***, and ***Rama Rani v. Union of India***, passed in ***CWP-24646-2017***, wherein a similar issue was dealt with by this Court.

11. The legal framework governing the recovery of excess payments made to public servants is fundamentally rooted in the principles of equity and judicial discretion, rather than in conferring any absolute right upon the employee. The primary objective of this discretionary relief is to shield the employees, particularly those in the lower echelons of service, from the crippling hardship that would ensue



from recovering amounts already spent with a *bona fide* belief that they were legitimately entitled for them.

12. In view of the above facts and circumstances, the present writ petition is allowed. The impugned demand notice-cum-recovery order dated 16.09.2022 (Annexure P-2) is hereby set aside in terms of ***Rafiq Masih's case (supra)***. The respondents are directed to refund the amount already recovered from the petitioner from November, 2022 onwards, along with interest at the rate @ 6% per annum, within a period of three months from the date of receipt of a certified copy of this order.

13. Disposed of accordingly.

14. Pending miscellaneous application, if any, also stands disposed of.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**13.10.2025**

*yakub*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No