



RSA-5817-2016 (O&M)

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

**RSA-5817-2016 (O&M)**

**Date of Decision: 02.09.2025**

Punjab Small Industries and Export Corporation Ltd. ....Appellant

Vs.

Sh. Dev Raj Sharma .....Respondent

**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present : Ms. Munisha Gandhi, Senior Advocate, with  
Ms. Salina Chalana, Advocate,  
for the appellant.

Mr. Shivam Kapila, Advocate, and  
Mr. Kapil Kakkar, Advocate,  
for the respondent.

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**SUDEEPTI SHARMA J. (ORAL)**

1. The present Regular Second Appeal is preferred against the judgment and decree dated 29.04.2015 passed by the learned Civil Judge (Junior Division), Chandigarh, whereby, the suit for recovery filed by the appellant against the respondent was dismissed and judgment and decree dated 20.05.2016 passed by learned Additional District Judge, Chandigarh, whereby, appeal filed by the appellant against the judgment and decree dated 29.04.2015, was dismissed.

2. Learned counsel for the appellant contends that both the Court did not appreciate the very fact that excess amount was admittedly paid to



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the respondent inadvertently. She, therefore, prays that the present appeal be allowed.

2. Per contra, learned counsel for the respondent submits that the civil suit for recovery has rightly been dismissed by learned Civil Judge (Junior Division), Chandigarh and appeal filed against the same has also rightly been dismissed by learned Additional District Judge, Chandigarh. He, therefore, prays for dismissal of the present appeal.

4. I have heard learned counsel for the parties and perused the case file with their able assistance.

5. The civil suit was filed for recovery of Rs.2,97,131/- as principal amount and Rs.82,936/- as interest upto 31.10.2012 on excess of amount of gratuity paid to respondent on superannuation of the respondent. Both the Courts have rightly appreciated the evidence on record by relying upon the judgment passed by Hon'ble the Supreme Court in **State of Punjab and others Vs. Rafiq Masih (White Washer) (2014) 8 SCC 883** and rightly dismissed the civil suit filed by the appellant as well as the appeal filed by the appellant.

6. Hon'ble Supreme Court in **Rafiq Masih's case (supra)** held as under:-

*“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."*

7. Respondent retired on attaining the age of superannuation on 31.03.2010. Thereafter, he was given all the retiral benefits. Civil suit was filed in the year 2012-13 for recovery of principal amount along with interest paid to the respondent. There is nothing on record to show that there



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is any fraud and misrepresentation on the part of the respondent because of which excess amount was given to him. Therefore, after retirement, as per judgment passed by Hon'ble the Supreme Court in **Rafiq Masih's case**, recovery cannot be effected.

8. In view of the above, I do not find any infirmity or illegality in the judgment and decree dated 29.04.2015 passed by the learned Civil Judge (Junior Division), Chandigarh and judgment and decree dated 20.05.2016 passed by the learned Additional District Judge, Chandigarh, and the same are hereby upheld.

9. Consequently, the present appeal is hereby **dismissed**.

10. Decree sheet be drawn.

11. Pending application(s), if any, also stand disposed of.

**(SUDEEPTI SHARMA)**  
**JUDGE**

**02.09.2025**

Virender

Whether speaking/non-speaking : Yes

Whether reportable : Yes/No