**IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA**

**CWP No.2524 of 2019**

**Decided on 19th June, 2026**

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**Krishnu Ram**

**…Petitioner**

**Versus**

**State of Himachal Pradesh and others**

**…Respondents**

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**Coram**

**Hon'ble Mr. Justice Ajay Mohan Goel, Judge**

**[1]Whether approved for reporting?**

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**For the petitioner:** **Ms. Aruna Chauhan, Advocate.**

**For the respondents:** **Mr. Pushpinder Jaswal, Additional Advocate General.**

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**Ajay Mohan Goel, Judge** *(Oral)*

By way of this writ petition, the petitioner has, *inter alia*, prayed for the following reliefs:-

> *a) "That writ in the nature of certiorari may kindly be issued quashing the impugned notice dated 02.09.2019 (Annexure P-5).*
>
> *b) That writ in the nature of mandamus may kindly be issued, directing the respondents to grant the promotional increments like seniority, increments, monetary benefits and other allowances to the petitioner which are due since August, 2011."*

2. The petitioner has assailed communication dated 02.09.2019 (Annexure P-5), in terms whereof, he was informed

that an amount of Rs.3,41,250/- was recoverable from him on account of overpayment, due to grant of two special increments including allowances.

3. Learned counsel for the petitioner vehemently argued that the petitioner, who at the relevant time was serving as a TGT (Arts) Teacher, was not made any overpayment and even if it was to be assumed that any overpayment was made to the petitioner, even then, it was not on account of any act of omission or commission on his part. She further submitted that otherwise also as the petitioner at the relevant time was serving as a Class-III employee and during pendency of the petition, he has retired from the same post as a Class-III employee, the impugned order is not sustainable in the light of the law declared by the Hon'ble Supreme Court in State of Punjab and others versus Rafiq Masih (White Washer) and others, (2015) 4 Supreme Court Cases 334.

4. On the other hand, learned Additional Advocate General argued that in the light of the fact that an amount of Rs.3,41,250/-, was paid to the petitioner, to which, he was not entitled to, the Authority rightly ordered the recovery thereof in

terms of Annexure P-5. Learned Additional Advocate General submitted that it is not as if the Authority ordered the recovery of an amount which was due and payable to the petitioner. He submitted that as the said payment was made to the petitioner wrongly, therefore, recovery thereof cannot be faulted with.

5. I have heard learned counsel for the parties and have also carefully gone through the pleadings as well as documents appended therewith.

6. Annexure P-5 is self-speaking that an amount of Rs. 3,41,250/- was ordered to be recovered from the petitioner, who was serving as a TGT (Arts) Teacher on account of overpayment due to grant of two special increments (including allowance). A careful perusal of the reply filed by the Department demonstrates that it is not the stand of the Department that this over payment was made to the petitioner because of any act of omission or commission on his part. In other words, the petitioner was not instrumental in the overpayment that was made to him by the Department.

7. That being the case, as obviously, the overpayment was made to the petitioner by the Department, while he was serving as a Class-III employee, recovery thereof is not permissible in law.

8. In terms of the judgment passed by the Hon'ble Supreme Court of India in State of Punjab and others versus Rafiq Masih, certain circumstances stand culled out by the Hon'ble Supreme Court of India, in which, no recoveries by the employer have been held to be permissible in law. This includes recovery from retired employee and recovery from Class-III and Class-IV employees. As it is not in dispute that at the time when Annexure P-5 was served upon the petitioner, he was serving as a Class-III employee, therefore, the order of recovery was hit by the law declared by the Hon'ble Supreme Court of India in State of Punjab and others versus Rafiq Masih (White Washer) and others, (2015) 4 Supreme Court Cases 334 and therefore obviously, Annexure P-5 is not be sustainable in law.

9. Accordingly, in light of the above discussions, this petition is allowed by ordering quashing of Annexure P-5 with further observation that no recovery shall be effected from the petitioner on the ground of alleged overpayment made to him, due to grant of two special increments.

10. At this stage, learned counsel for the petitioner submits that the amount already stands recovered by the Department from the petitioner. If that is so, then, the Department is directed to refund back the recovered amount to the petitioner within three months from today. In case, the refund is made within three months from today, then, no interest shall be payable upon the same. If the amount is not refunded within three months, then, it shall also entail interest @ 6% per annum from the date of this order.

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

**(Ajay Mohan Goel)**
**Judge**

June 19, 2026
*(Vinod)*