

CWP-13056-2025 (O&M)
CWP-13901-2026 (O&M)

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CNR No: PHHC010728082025
2026:PHHC:108031



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. CWP-13056-2025 (O&M)

JASWANT SINGH GREWAL

.....Appellant

Vs.

STATE OF PUNJAB AND ORS.

.....Respondents

2. CWP-13901-2026 (O&M)

JASVINDER SINGH VIRK

.....Appellant

Vs.

STATE OF PUNJAB AND ORS.

.....Respondents

Reserved on : 23.07.2026
Pronounced on: 04.08.2026
Uploaded on: 07.08.2026

Whether only the operative part of the judgment is pronounced? NO
Whether full judgment is pronounced? YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Ranjivan Singh, Advocate
Mr. Jasjot Singh, Advocate
Mr. Navjot Singh Kalsia, Advocate
for the petitioner (in CWP-13056-2025).

Mr. Amrik Singh, Advocate
for the petitioner (in CWP-13901-2026).

Ms. Arundhati Kulshreshtha, AAG, Punjab.

SUDEEPTI SHARMA J. (Oral)

1. Since the question of law involved in both the above referred to writ petitions is common, therefore, both the petitions are decided vide this common judgment.



and memo dated 25.04.2025 to the extent of recovery as a consequence of reduction/refixation of pay of the petitioner vide office order dated 21.12.2021 and challenge in CWP-13901-2026 is to order dated 21.12.2021, whereby, recovery to the tune of Rs.2,34,857/- is effected.

3. Learned counsel counsel for the petitioners contends that in CWP-13056-2025, petitioner retired on 31.03.2021 as Sub-Divisional Engineer upon attaining the age of superannuation and after his retirement vide order dated 24.01.2022, the recovery to the tune of Rs.2,94,009/- is ordered to be effected and in CWP-13901-2026, the petitioner has retired as Sub-Divisional Engineer on 30.09.2020 upon attaining the age of superannuation and after his retirement vide order dated 21.12.2021, the recovery to the tune of Rs.2,34,857/- is ordered to be effected. They further contend that recovery cannot be effected after retirement. Further that no show cause notice was issued to the petitioners before effecting the recovery.

4. In support of their contentions, they relied upon the judgment passed by Hon'ble Supreme Court in **Thomas Daniel Vs. State of Kerala and others, 2022 AIR Supreme Court 2153.**

5. Per contra, learned counsel for respondent-State contends that reply filed in CWP-13056-2025 is adopted in CWP-13901-2026 with respect to recovery effected from the petitioners in both the writ petitions.

6. She further contends that the pay of the petitioners was wrongly fixed and they were given overlapping benefit of ACP (04.09.2014) and Structural Pay Scheme (10-20-25 years) and the only benefit sought to be taken away by way of recovery was additional annual increment given after completion of 25 years in service vide memo dated 02.01.2012. And that too is being considered only by adjustment in payment of arrears of leave encashment



and no recovery has been effected till date.

7. She further contends that the petitioners submitted undertaking at the time of retirement stating that they will have no objection to any recovery/adjustment of payment provided it comes to light that the petitioners were made excess payment than their entitlement.

8. In support of her contentions, she relied upon the judgment passed by Hon'ble Supreme Court in High Court of Punjab and Haryana and others Vs. Jagdev Singh, 2016 AIR Supreme Court 3523 and Jogeswar Sahoo and others Vs. The District Judge, Cuttack and others, 2025 AIR Supreme Court 2291.

9. I have heard learned counsel for the parties and perused the whole file of this case with their able assistance.

10. It would be apposite to reproduce the relevant portion of the written statement filed by the respondents, which is reproduced as under:-

“3. It is submitted that Sh. Jaswant Singh Grewal, Sub Divisional Engineer, retired from government service on 31.03.2021 while serving in the capacity of Sub Divisional Engineer. In compliance with the judgment dated 20.05.2013 passed by the Hon'ble High Court in CWP No. 16446 of 2010 titled Jasvinder Singh Bedi & Others vs. State of Punjab and as per the Government instructions dated 03.11.2006, the Executive Engineer, Construction Division No. 1, Ludhiana, vide Office Order No. 12 dated 05.05.2020, fixed the pay of the officer while granting the benefit of the 4-9-14 ACP Scheme and 10-20-25 years Structural Pay Scheme as applicable to Junior Engineers. Subsequently, the Department of Finance (Finance Personnel Branch), Government of Punjab, issued clarification vide letter No. 05/138/209-3FP/1383 dated 01.11.2021, clarifying the admissibility of benefits under



both ACP and Structural Pay Schemes to Junior Engineers. Accordingly, this office revised the pay of the officer in the capacity of Junior Engineer vide Office Order No. 75/Establishment-II dated 09.12.2021, as a result of which a recovery of Rs. 2,94,009/- was determined to be recoverable from the petitioner.

4. That the present writ petition is not maintainable and is liable to be dismissed in limine as the Petitioner is seeking interference with the lawful process of recovery of excess payment that was inadvertently made due to incorrect pay fixation.

5. That the action of the department is in accordance with the clarification dated 01.11.2021 issued by the Department of Finance, Punjab, with respect to the grant of benefits under the ACP and Structural Pay Schemes. As per this clarification, recoveries are to be initiated where excess payment has been made, subject to law.

6. That Government of Punjab, vide letter no.5/138/2009-3FP1/1383 dated 1.11.2021 (Annexure P-4) issued clarifications regarding grant of benefits under instructions dated 03.11.2006 with regard to ACP Scheme and instructions dated 01.12.2011 governing structural pay scale to Junior Engineers/Asstt. Engineers of the State of Punjab vide which it was clarified that letter no. 5/138/2009-3FP1/1881 dated 01.12.2011 (vide which structural pay scale has been granted to Junior Engineer on completion of 10-20-25) and letter no. 7/60/2006-5PP1/15963 dated 03-11- 2006 (vide which assured career progression scheme on completion of 4-9-14 years of service was notified) are independent of each other. Thereafter, the pay fixation of petitioners in pursuance of clarification issued by the Government of Punjab dated 1.11.2021 was done.

7. That the Petitioner was granted an additional annual increment vide memo dated 02.01.2012 on completion of 25



years of service. However, later, upon audit objection and application of the clarification dated 01.11.2021, it was found that the said increment was not admissible due to overlapping benefits under the ACP Scheme and Structural Pay Scale, and accordingly, necessary corrections were made in the Petitioner's pay.

8. That the excess payment amounting to Rs.2,94,009/- has been computed based on the Due & Drawn statement prepared by the concerned Executive Engineer's office. The amount is liable to be recovered as it does not fall under the exempted categories listed in the Supreme Court judgment in State of Punjab v. Rafiq Masih (2015) 4 SCC 334.

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4. It is admitted that the petitioner was granted an additional increment vide Memo No.57 dated 02.01.2012. However, upon later audit scrutiny and clarification issued by the Department of Finance vide circular dated 01.11.2021, it was found that such

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xxx xxx xxx xxx

8. That the contents of para 8 of the writ petition are matter of record. It is submitted that recovery of Rs.2,94,009/- is based on actual calculation of overpaid amount due to earlier erroneous grant of benefit, and the same is recoverable as per law. The circular dated 01.11.2021 does not bar such recovery if done following process.”

11. A perusal of the above referred to relevant portion of written statement shows that two simultaneous benefits of ACP as well as Structural Pay Scheme were wrongly granted to the petitioners and the Government



clarified that two benefits cannot be granted because of which the recovery of wrongly granted benefits is effected.

12. Further, both the petitioners in both writ petitions had given the undertaking at the time of retirement stating therein that they will have no objection to any recovery/adjustment of payment provided it comes to the light that the petitioners were made excess payment than their entitlement and admittedly in the present writ petitions, the petitioners were made excess payment than their entitlement.

13. Now coming to the judgment relied upon by learned counsel for the petitioners.

14. The facts of both the cases are distinguishable since in the facts of the judgment relied upon by learned counsel for the petitioners, the recovery was effected after 10 years of his retirement and the petitioner in that case never gave any undertaking as given in the present cases.

15. Now coming to the judgment relied upon by learned State counsel, the Hon'ble Supreme Court in Jagdev Singh's case (supra) has held as under:-

***“9. The submission of the Respondent, which found favour with the High Court, was that a payment which has been made in excess cannot be recovered from an employee who has retired from the service of the state. This, in our view, will have no application to a situation such as the present where an undertaking was specifically furnished by the officer at the time when his pay was initially revised accepting that any payment found to have been made in excess would be liable to be adjusted. While opting for the benefit of the revised pay scale, the Respondent was clearly on notice of the fact that a future re-fixation or revision may warrant an adjustment of the excess payment, if any, made.*”**



10. In State of Punjab & Ors etc. v. Rafiq Masih (White Washer) etc. 2015(1) S.C.T. 195 : 2015(1) Recent Apex Judgments (R.A.J.) 104 : (2015) 4 SCC 334. this Court held that while it is not possible to postulate all situations of hardship where payments have mistakenly been made by an employer, in the following situations, a recovery by the employer 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."

(emphasis supplied)

11. The principle enunciated in proposition (ii) above cannot apply to a situation such as in the present case. In the present case, the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in



excess would be required to be refunded. The officer furnished an undertaking while opting for the revised pay scale. He is bound by the undertaking. ”

16. In view of the law laid down by Hon’ble Supreme Court and as per the facts and circumstances of these cases, wherein, two simultaneous benefits were granted to the petitioners and the petitioners themselves gave undertaking regarding the recovery of excess amount, I do not any merit in both the writ petitions and the same are hereby **dismissed**.

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

04.08.2026

Ayub/Sahil

(SUDEEPTI SHARMA)
JUDGE

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