

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...

**OA No. 060/00106/2017                      Date of decision- 27.11.2017**

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)  
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

1. Kirat Singh aged 57 years (Electrician)

Son of Late Sh. Ajit Singh.

2. Gurmukh Singh aged 43 years (Plumber)

Son of Sh. Karnail Singh.

3. Gurjeet Singh aged 56 years (Plumber)

Son of Sh. Sardar Bikar Singh.

4. Kirti Singh aged 60 years (Motor Man)

Son of Sh. Mahesha Singh.

All working in the office of Sports Authority of India, NS,  
NIS, Old Moti Bagh, Patiala.

**...APPLICANT**

**BY ADVOCATE :** Mr. Sanjiv Pandit, Advocate.

**VERSUS**

1. Sports Authority of India,

Jawahar Lal Nehru Stadium,

East Gate, Lodhi Road Complex,

New Delhi through its Director General.

2. The Executive Director (A) Sports Authority of India,

Netaji Subhash Institute of Sports,

Old Moti Bagh, Patiala.

**...RESPONDENTS**

**BY ADVOCATE:** Mr. Arvind Moudgil, Advocate.

**ORDER (ORAL)**

**SANJEEV KAUSHIK, MEMBER(J):-**

By means of present O.A filed under Section 19 of the Administrative Tribunals Act, 1985, the applicants seek following relief:-

"i) quashing of impugned order dated 07.10.2015 (Annexure A-1) and any other subsequent recovery order vide which the respondents are illegally recovering the amount from the applicants from Jan 2017 which has alleged to have been paid in excess under ACP Scheme during the period from 01.01.2006 to 31.08.2008 qua the applicants.

ii) To issue directions to the respondents to withdraw the impugned recovery order 07.10.2015 (Annexure A-1) and any other subsequent recovery orders in this context."

2. We have heard learned counsel for the respective parties.

3. In support of the plea raised in O.A, learned counsel for the applicants submitted that impugned order is liable to be set aside in terms of the decision rendered in case of **State of Punjab & Ors Vs Rafiq Masih (White Washer)** (2014(8) SCC 883) as the applicants are Group 'C' employees, thus, the respondents cannot effect recovery from them in terms of the exceptions carved out by the Lordship in para 12 of the judgment. Being relevant same reads as under:-

"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."

4. Sh. Arvind Moudgil, learned counsel for the respondents is not in a position to rebut the argument raised by the applicants that the present case is squarely covered by the decision rendered in case of Rafiq Masih (supra).

5. We have given our thoughtful consideration to the entire matter and are in agreement with the submission made at the hands of the applicants. Considering that the applicants have only impugned action of the respondents qua recovery of excess amount as paid by the respondents while granting the ACP benefit, the respondents cannot effect recovery from Group-C employees, like the present applicants in terms of the exception carved out by the Lordship in case of Rafiq Masih (supra). Even also, learned counsel for the respondents is unable to show any contrary law to the settled law in case of Rafiq Masih (supra). Accordingly, we left with no other option but to quash the action of the respondents to effect recovery. The present O.A is allowed in above terms.

6. No order as to costs.

**(P. GOPINATH)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

**Dated: 27.11.2017.**

`jk'