

**(2010) 11 P&H CK 0505**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Civil Writ Petition No. 11766 of 2006

Vimla Kalia

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

**Date of Decision:** Nov. 1, 2010

**Hon'ble Judges:** Kanwaljit Singh Ahluwalia, J

**Bench:** Single Bench

**Judgement**

Kanwaljit Singh Ahluwalia, J.

In the present writ petition, a prayer has been made that a direction be issued to the respondents not to recover the amount of Rs. 47,702/-on account of re-fixation of pay, as the same already stood paid by the respondents to their employee, when her salary was re-fixed.

2. Briefly stated, the petitioner was posted as a Lecturer of History in Government Senior Secondary School, Kadipur, District Gurgaon. She was awarded an additional increment with effect from 1st July, 1992 on completion of 18 years of service after counting her adhoc service, in view of the Government Circular dated 7th August, 1992. Later-on, the petitioner was informed by the Principal of the School that Government has issued a Circular and the adhoc service is not to be counted towards the regular service for grant of additional increment after completion of 18 years of service.

3. In the writ petition, reliance has been placed upon a judgment rendered by Hon"ble the Apex Court in "Sahib Ram v. State of Haryana" JT(1) SC 668 to contend that when there is no misrepresentation, fraud or deception on the part of the employee and if under a wrong notion a financial benefit has been given to an employee, the same cannot be recovered.

4. The controversy raised in the present writ petition now stands conclusively resolved by a Full Bench of this Court. It was held in "Budh Ram and Ors. v. State of Haryana and Ors. 2009(3) SCT 333 that where no fault can be imputed to the

employee and without any misrepresentation, fraud or deception on the part of the employee, the employer has committed any mistake, recovery of the same cannot be effected.

5. In view of the ratio of law laid down in Budh Ram's case (supra), order (Annexure P-2) dated 24th April, 2006 so far as it orders recovery of the amount, is quashed. However, the order, whereby increment was withdrawn from the petitioner-workmen counting the adhoc service, is hereby upheld.

6. Thus, this writ petition stands partly allowed.