

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

(597)

CWP No.15870 of 2001 (O&M)
Date of Decision:- 16.09.2015.

Amrit Kaur Ahluwalia

.....Petitioner

Versus

Punjab Nursing Registration Council and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Karan Nehra, Advocate for the petitioner.

Mr. Amit Chaudhary, DAG, Punjab.

Mr. V.K.Kataria, Advocate

P.B. BAJANTHRI, J.(Oral)

The petitioner has questioned the internal communication dated November, 1990 between Superintendent, Department of Medical Education and Research and the Registrar-Ist respondent relating to withdrawal and recovery of special pay paid to the petitioner on 01.12.1990. Further, he has questioned the consequential order passed by the Ist respondent vide communication dated 24.02.2000.

The petitioner while working as Registrar, Punjab Nurses Council was granted special pay of Rs.200/- per month on 01.12.1990 and continued to pay even on 16.11.1999. Abruptly, there is an internal

communication between the Superintendent, Department of Medical Education and Research to the Ist respondent stating that petitioner is not entitled to special pay. Consequently, special pay granted to the petitioner is to be recovered immediately. Pursuant to the said communication, Ist respondent issued communication to the petitioner on 24.02.2000 stating that the special pay which has been granted would be deducted from the retiral benefits like gratuity and leave encashment. Learned counsel for the petitioner submitted that the impugned communication dated 16.11.1999 and 24.02.2000 is without notice to the petitioner. On this count, both the communications are liable to be set aside. It was further contended that the matter is covered by decision of the Apex Court titled as ***State of Punjab versus Rafiq Masih*** reported in 2015(1)SCT195.

On the other hand, learned counsel for the respondents contended that in terms of Section 19 of the Punjab Nurses Registration Council Act, 1932, petitioner is not entitled to special pay and it was wrongly granted to the petitioner. Therefore, there is no infirmity in deducting the special pay granted to the petitioner from 01.12.1990 onwards.

Heard learned counsel for the parties.

Short question for consideration is whether the respondents have right to deduct special pay granted to the petitioner from the retiral benefits like gratuity and leave encashment without issuing notice to the petitioner. Any deduction of amount from an employee or retired employee as a civil consequences without issuing notice to such employee, cannot be made from the retiral benefits. Accordingly, Annexures P10 and P11 are set

aside. Respondents are directed to refund the amount which is already deducted pursuant to Annexures P10 and P11 within a period of 8 weeks'.

At this stage, learned counsel for the petitioner submitted that provident fund which is due to the petitioner has not been paid till date. The respondents are directed to release the same in accordance with law along with interest @ 9% per annum within a period of 8 weeks'.

Accordingly, writ petition is disposed of.

16.09.2015
pooja saini

(P.B.BAJANTHRI)
JUDGE