

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

CWP No.2497 of 2013

Date of Decision: 19.01.2015

Mohinder Singh

....Petitioner

Vs.

UHBVNL and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present:- Mr. Munish Mittal, Advocate
for the petitioner.

Ms. Jarnail Kaur, Advocate
for the respondents.

Amol Rattan Singh, J (Oral)

This petition seeks quashing of the letter dated 03.10.2012 (Annexure P-1), by which an amount of Rs.2,26,960/- was deducted while ordering release of Rs.55,703/- by way of death-cum-retirement gratuity to the petitioner, which had actually become due to him on the date of his retirement on 31.03.2010.

Learned counsel for the petitioner submits that the said amount was actually not deductible and that too 2 ½ years after his retirement and, as such, the action of the respondents is unsustainable, even in the light of the judgments on that issue.

Learned counsel for the respondents, on the other hand, submits that during the period of the petitioners' service, he had sought stepping up of his pay to the level of one Munni Lal, his junior, and such stepping up was ordered w.e.f. 01.08.1996, though the actual date vide which it was so

ordered is not forthcoming in the reply filed by respondent No.3.

Be that as it may, learned counsel submits that vide an affidavit dated 13.02.2012, a copy of which has been annexed with the reply, the petitioner had stated that in case the respondents have withdrawn the stepped up pay of persons juniors to him, then the stepping up of the pay of the petitioner may also be withdrawn. However, the said affidavit also states that the petitioner may be granted ACP scales as per instructions of the respondents dated 20.07.2009, and his pay be re-fixed accordingly.

Therefore, the contention of the learned counsel for the respondents is that since the petitioner himself had agreed to his pay being stepped down, in view of the fact that the pay of his juniors, with whom he had earlier sought parity, had been so stepped down, the petitioner cannot claim the benefit of wrong stepping up of pay and therefore, his DCRG, to the extent of Rs.2, 26,960/-, which was an amount that had been paid to him over a period of time, on account of such wrongly stepped up pay, was withheld.

Learned counsel for the petitioner counters the above by stating that the petitioner had no option but to submit the said affidavit, in view of the fact that even 1 ½ years after the petitioners' retirement, he had not been released any amount of gratuity due to him at the time of his retirement.

Though what learned counsel for the petitioner contends may be factually correct, that the affidavit was given in the aforesaid circumstances, however, I do not see the rationale of the principal argument

made on behalf of the petitioner. Once the petitioner was aware that the pay of his juniors with whom he had sought parity had been admittedly “stepped down”, after it was initially wrongly stepped up, the petitioner could not continue to be allowed to draw the benefit of step-up, which was no longer admissible to his juniors.

As such, I see no infirmity in the respondents recovering the amount of Rs.2,82,063, as was drawn by the petitioner over a period of time, on account of stepping up of his pay to the level of his juniors, even after the pay of such juniors had been revised downwards and recoveries are also stated to have been made from them, as contended by learned counsel for the respondents.

However, as to whether or not, the petitioners' pension has been fixed after granting him the benefit of ACP scales, in terms of instructions dated 27.02.2009, as he had sought vide his aforesaid affidavit, is not clear, as nothing has been averred to that effect in the petition and consequently, obviously, no reply on that issue would be lying in the written statement filed by the respondents.

This petition is, consequently, disposed of, with a direction to the respondents, to pass a speaking order, stating therein as to whether the petitioners' pension has been fixed after granting the benefit of the ACP Scales as he had claimed, and if not, the reasoning for not granting him such benefits.

Needless to say, that if the ACP scales were due to the

petitioner and have not been granted to him, his pay and pension would be re-fixed accordingly and all arrears as are due to him on that account, would be given to him, after accounting for the amount of Rs.2,26,960/- sought to be deducted, vide the impugned order.

The needful be done within 2 months from the date of passing of the speaking order, which shall be passed within a period of two months of the date of receipt of a certified copy of this order.

If, however, the ACP scales as claimed by the petitioner in the aforesaid affidavit dated 13.02.2012, are not found due, detailed reasons for the same would be given in the speaking order to be passed.

January 19, 2015
vcgarg

(Amol Rattan Singh)
Judge