

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

CWP-2603-2013 (O&M)  
Date of decision : 31.03.2015

Harjit Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present: Mr. OP Gabba, Advocate,  
for the petitioners.

Ms. Harsimrat Rai, DAG, Punjab.

**JITENDRA CHAUHAN, J. (Oral)**

The petitioner is aggrieved against the order issued vide Endst. No.7094-7100/5 N.G.A.-1/2012, dated 25.10.2012 (Annexure P-1), by respondent No.2; order issued vide letter No.4105/PF/D dated 6.12.2012 (Annexure P-2), by respondent No.3; and order issued vide letter No.144/PF/D dated 17.01.2013 (Annexure P-3), whereby recovery of Rs.2,41,770/-, has been sought to be effected from the petitioner.

It is submitted that one Rani Devi approached this Court by filing CWP No.4230 of 2012, and sought stepping up of her pay at par with the petitioner, the latter being junior. In the said writ petition, the

following order was passed by this Court on 06.03.2012:-

*“Learned counsel for the petitioner undertakes to supply four copies of the petition to the learned D.A.G. During the course of the day failing which the order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.*

*Having regard to the nature of the order which I propose to pass, there is no necessity to call upon the respondents to file their counter-reply(ies)/affidavits, at this stage.*

*Accordingly, this petition is disposed of with a direction to respondent No.2 to decide the claim of the petitioner as mentioned in the writ petition by passing a speaking order thereon within a period of three months from the date of receipt of a certified copy of this order and to release whatever amount is found due within the aforesaid period.*

*A copy of this order is given to the learned D.A.G. Under the signatures of the Court Secretary.”*

In compliance of the above order, impugned order (Annexure P-1), was passed, the operative part whereof, reads thus:-

*“I, Vinod Chaudhary, Chief Engineer, Irrigation Department, Punjab, Chandigarh, have examined the case of stepping up of junior equal to that of the senior as per the record/report of Executive Engineer, Mechanical Drainage Construction Division, Ferozepur, who is the Drawing and Disbursing Officer of the Petitioner and I have arrived at decision that the salary of D.H.D. Smt. Harjit Kaur has been fixed Rs.7880/- from 1-11-1996 wrongly whereas the salary of the employee was liable to be fixed as Rs.7440/- with effect from 1-11-1996. Salary of Smt. Rani Devi is already fixed at Rs.7440/- from 1-11-1996. So the salary of the Senior and Junior employees is equal as Rs.7440/- from 1-11-1996. As such Smt. Rani Devi has already been given all Service benefits and no other arrears are due from the Department.”*

Consequently, Office order, Annexure P-2, was passed, whereby, the pay drawn by the petitioner w.e.f. 17.10.1995, was

re-fixed and vide order Annexure P-3, an amount of Rs.2,41,770/- was ordered to be recovered from the petitioner. It is contended that the pay/pension of the petitioner was rightly fixed. The impugned orders, Annexures P-1 to P-3, are not sustainable in the eyes of law. It is specifically asserted that the petitioner was never served any notice before passing of the impugned orders. The learned counsel cites ***Meena Kakkar Vs. State of Haryana, 2002(3) S.C.T. 663; Inderjeet Kaur Chahal Vs. State of Punjab, 2005(3) S.C.T. 611; and State of Punjab Vs. Rafiq Masih, 2015(1) S.C.T. 195.***

On the other hand, the learned State counsel submits that the petitioner was wrongly given proficiency step-up (18 years) w.e.f. 17.10.1995, by the Executive Engineer, Canal Lining Division, Ferozepur, vide letter No.1620/P.F., dated 18.04.1996, and the same was withdrawn as per entry at page No.16 (Part-4) of the Service Book.

It is not in dispute that reduction in the pay was made vide office order dated 06.12.2012, Annexure P-2, whereas, the petitioner retired from service on 28.02.2011. The learned counsel for the State has not been able to refer to any communication on the basis of which it can be concluded that the petitioner was ever served with any show cause notice or was associated in the proceedings, in any manner, before reducing the pay already fixed. In the absence thereof, the orders Annexures P-1 to P-3, cannot stand and the same are hereby

quashed. The present petition is allowed accordingly.

However, the respondents are at liberty to raise their legitimate claim, if any, against the petitioner as per law, after due service upon her.

Allowed.

**31.03.2015**  
*atulsethi*

**(JITENDRA CHAUHAN)**  
**JUDGE**