

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7206 of 2015 (O&M)

Date of Decision: 29.09.2015

Khushal Singh Thakur

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Puneet Gupta, Advocate,
for the petitioner.

Mr. Harkesh Manuja, Addl. AG, Punjab.

Mr. Mahesh Dheer, Advocate,
for respondent No.3.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

CM No.12891 of 2015

The application is allowed as prayed for and documents taken on record subject to just exceptions.

Main case

1. The distinguishing feature in this case from the case relied on by the learned counsel for the petitioner in **Gurdip Kaur vs. Union of India and others**, 2015 (2) SCT 111 and the unreported order of this Court passed by me in CWP No.28063 of 2013 titled *Bodh Singh Ghuman vs. State of Punjab and others* is that in the present case, over payment by mistake has not been made by the employer-State of Punjab but has been the

result of a mistake committed by the State Bank of India in the pension account of the petitioner maintained by the Bank under authority of the State Government. However, the Bank has started effecting recovery from the pension of the petitioner without notice or hearing which is in breach of the principles of natural justice.

2. To that extent, the learned counsel for the petitioner may be right that his client deserves the protection of the rule of *audi alteram partem* and a reasonable opportunity ought to have been given to show to the Bank that the recovery is unfounded or not to effect deductions except after reference of the dispute to the State Government in the quarters concerned. Court is informed that a committee has already been constituted under directions of this Court to examine the issue of excess payments to employees under mistake of law or fact and such a committee should examine the issue arising in this case as well in the first instance.

3. Learned counsel for the petitioner relies on the decision of the Supreme Court in **State of Punjab and others vs. Rafiq Masih (White Washer) etc.**, 2015 (2) SCC (Civil) 608 to support his contention.

4. Learned counsel for respondent No.3-State Bank of India submits that a review application has been filed in **Gurdip Kaur** case which has been dismissed by the learned Single Judge and Bank is in the process of filing an appeal.

5. Be that as it may, in order to secure the ends of justice, a direction is issued as prayed for to the committee set up under the directions of this Court in CWP No.15649 of 2008 decided on April 23, 2014 titled *Jagjit Kaur vs. State of Punjab and others* consisting of members drawn

from both the State Bank of India and the Punjab Government to examine and consider the case of the petitioner.

6. To this end the petitioner has filed a representation (P-2) to the respondent-State for redressal of his grievance against recovery of money from the family pension of the husband of the deceased female employee which has not been decided so far.

7. In view of the above, a direction is issued to the committee to take up the representation, hear the petitioner and pass a speaking order within one month from the date of receipt of certified copy of this order. In case the recovery is not to be made there would be no necessity of hearing the petitioner but if an adverse order is contemplated then the committee would comply with the former direction and communicate its order to the petitioner who would have liberty to approach this Court, in which case, recovery will not be made for one month after communication of the adverse order, in case it is passed, to enable him to seek judicial redress without any financial disruption meanwhile.

(RAJIV NARAIN RAINA)
JUDGE

29.09.2015

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