

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

Civil Writ Petition No.10063 of 2012

Date of decision: 19.5.2016

Asha Rani

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. R.K.Girdhar, Advocate for the petitioner.

Mr. L.S.Virk, Addl. Advocate General, Punjab.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks quashing of order dated 2.5.2012 (Annexure P/4) whereby recovery of ₹ 3,75,408/- has been directed against her. Reason for the claim of said amount by the respondents is that excess GPF amount had been paid because of wrong calculation in the year 2003-04 and because of wrong postings made in the year 2004-05. A sum of ₹ 1,50,000/- had been withdrawn by the petitioner which had been adjusted and on that account the claim was made which is along with interest.

The case of the petitioner is that she had retired on 30.9.2007 and after a period of almost 5 years, the impugned order dated 2.5.2012 has been passed without even issuing any show cause notice and without putting the petitioner at guard as to on what account the said amount is sought to be recovered.

In the written statement, the plea taken by the respondents is that the amount of ₹ 1,50,000/-had been withdrawn by the petitioner from her GPF account for the purpose of solemnization of marriage of her child

in January, 2005. The withdrawal was not posted by the concerned official in the column of withdrawal in the ledger. The audit party in the year 2010 had got noted to the authorities the discrepancy and some other calculations in the GPF account of the petitioner were also found to be in disorder. Accordingly, the petitioner was asked to deposit the amount in question.

Vide interim order dated 24.5.2012, this Court had directed the petitioner to deposit the principal amount which admittedly has been done to the tune of ₹ 2,15,000/- which was paid in excess to her.

Resultantly, the State has recovered the excess amount paid to the petitioner and the balance which is now sought to be recovered by the State is on account of the interest element. As noticed, the fault was of the official of the State itself for which the petitioner cannot be held responsible. Though she had withdrawn excess amount but the principal amount has been deposited by her. Therefore, she cannot be saddled with the interest element on account of the fault of the official of the State. It is not the case of the respondent that there was fraud or misrepresentation on the part of the petitioner.

In such circumstances, this Court is of the opinion that principal amount has been deposited and the claim of the State on account of interest is not justified. Resultantly, the present writ petition is allowed and the impugned order dated 2.5.2012 is quashed to the extent of recovery of balance amount on account of interest on part of the petitioner.

May 19, 2016
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(G.S.SANDHAWALIA)
Judge