

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.10753 of 2015
Date of Decision: 27.09.2016

NIRMALA DEVI

... Petitioner

VS.

STATE OF PUNJAB AND OTHERS.

..Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Sunny Singla, Advocate,
 for the petitioner.

Mr. Parupkar Singh Ghuman, Addl. A.G., Punjab.

KULDIP SINGH, J. (Oral)

Brief facts of this case are that Surinder Kumar-husband of the petitioner expired on 19.12.2013. Family pension was released immediately to Nirmala Devi-petitioner, being widow of Surinder Kumar. The petitioner by way of this writ petition has challenged the impugned letter dated 23.01.2015 (*Annexure P-3*) vide which recovery of ₹76,901/- is sought to be effected from the family pension @ 3,000/- per month starting from February 2015.

The reply of respondents shows that according to order dated 14.12.2012 (*Annexure R-1/1*) the gratuity amounting to ₹5,58,426/- has been released to the petitioner and an excess payment of ₹76,901/- is recoverable from the petitioner from the payment of the amount of DCRG. During the audit, the same has been pointed out and the same was recovered from the petitioner.

I have heard learned counsel for the parties and after carefully going through the case file, I am of the view that apparently it is a case where the respondents claimed that on account of some error, an excess amount in

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respect of gratuity was released to Surinder Kumar, husband of the petitioner. Now, the audit department has pointed out the same and recovery has been effected after the death of Surinder Kumar from the family pension which is allowed to the petitioner (wife of the deceased employee). In view of law laid down by the Apex Court in State of Punjab and Others Vs. Rafiq Masih; 2015 (1) SCT 195 decided on 18.12.2014 such recovery cannot be made.

Accordingly, the present petition is allowed and the impugned letter dated 23.01.2015 (*Annexure P-3*) is quashed and the recovery that has already been effected from the petitioner pursuant to the impugned order, the same shall be refunded to her alongwith interest @ 9% per annum.

September 27, 2016
Suresh Kumar

[KULDIP SINGH]
JUDGE

	✓		
Whether speaking / reasoned	Yes	/	No
			✓
Whether Reportable	Yes	/	No