

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 11055 of 2015 (O/M)
Date of decision : 30.11.2016

Lakhmi Chand

..... Petitioner (s)

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Naveen Daryal, Advocate, for the petitioner.

Mr. Kartar Singh Malik, Advocate, for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner has challenged the notice dated 11.5.2015 (Annexure-P-6), whereby the excess pension drawn by the petitioner is sought to recovered. The petitioner retired from service on 30.4.2005.

According to the stand of the respondents, the pension was inadvertently fixed. Now, the same has been corrected and the recovery has been sought.

The learned counsel for the petitioner has placed reliance upon the authority of the Apex Court in State of Punjab and others etc. Versus Rafiq Masih (White Waster) etc., 215 AIR (SC) 696 (Annexure-P-7), wherein it was held that when there is wrong fixation of pay and pension, the recovery cannot effected as there was no fault on the part of the employee on the alleged wrong fixation.

In view of the matter, the recovery of excess amount cannot be

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effected from the pension of the petitioner. As such, the notice dated 11.5.2015 (Annexure-P-6) is quashed. The present writ petition is allowed. The recovery, if any, already recovered from the pension shall be refunded to the petitioner within two months from the date of receipt of certified copy of this order, failing which the same shall be refunded with interest at the rate of 9% per annum.

(KULDIP SINGH)
JUDGE

30.11.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No