

Manjinder Kaur Petitioner (s)

State of Punjab and others Respondent (s)

Present:- Mr. Talwinder Singh, Advocate, for,
Mr. Hemant Saini, Advocate, for the petitioner.

Ms. Madhu Dayal, Advocate, for respondent No. 5.

- KULDIP SINGH J. (ORAL)

On behalf of respondent No. 5-Bank, it is stated that during the

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audit by the office of Auditor General, an audit objection was raised and accordingly the recovery was effected. The present petition was filed after five years. It is stated that the petitioner did not disclose the fact of getting her appointment on compassionate ground in the same department with effect from 10.4.1997.

Respondents No. 2 to 4 have also not disputed the factual position. It was stated that in case, no mis-representation or fraud has been made by family pensioners, who are receiving dearness relief on family pension, the same be stopped with immediate effect, but the recovery of amount already paid to them, cannot be effected.

I have heard the learned proxy counsel appearing for the learned counsel for the petitioner, the learned State counsel, the learned counsel for respondent No. 5-Bank and have also carefully gone through the file.

It comes out that in this case, on account of death of her husband, the petitioner was allowed family pension, on which dearness allowance was also paid. As per the Government instructions, in case of appointment on compassionate ground, the payment of dearness allowance will stop from the date of appointment. The petitioner was appointed on compassionate ground as a Constable in the Punjab Police on 10.4.1997. Therefore, the dearness allowance paid on the family pension would have stopped from the said date. However, the petitioner herself did not make any prayer for stopping the dearness allowance neither to the police department nor to the bank or to the treasury and dearness allowance was continuously paid on the family pension. When an audit objection was raised on payment of dearness allowance on the family pension, the

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recovery from the salary of the petitioner was effected upto year 2007. At the very outset, it is to be noticed that in the present case, the present petition was filed after five years. Therefore, the present writ petition is liable to be dismissed on the sole ground of laches. Otherwise also, once the recovery is made and it is not made illegally, this Court will refrain itself from ordering the refund of said recovery.

The present writ petition is accordingly dismissed.

(KULDIP SINGH)
JUDGE

28.7.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes