

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

\* \* \* \* \*

**CWP No. 4176 of 2014**

Date of decision : April 05, 2016

\* \* \* \* \*

Sumero Devi

.....Petitioner

Versus

UHBVN and others

.....Respondents

\* \* \* \* \*

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

\* \* \* \* \*

Present: Mr. Gaurav Goyal, Advocate for  
Mr. Ashwani Talwar, Advocate for the petitioner.

Mr. Gaurav Mohunta, Advocate for the respondent.

\* \* \* \* \*

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

**RITU BAHRI, J**

The petitioner is seeking quashing of the order dated 07.08.2009 (Annexure P-1), whereby recoveries to the tune of Rs.1,86,594/- have been made from the retiral benefits of the husband of the petitioner. The husband of the petitioner, Biram Dass, who retired from the service of the respondent-Uttar Haryana Bijli Vitran Nigam Limited (hereinafter referred to as the `respondent-Nigam') on 28.2.2005 upon attaining the age of superannuation had

earlier approached this Court by way of filing CWP No.8577 of 2007 seeking payment of retiral benefits. The writ petition was allowed vide order dated 30.1.2009 (Annexure P-2) with a direction to the respondents to release the entire retiral benefits of the petitioner along with interest @ 8% per annum from the date of the accrual till the date of payment. It was, however, mentioned that the respondents will have the right to initiate proceedings for making the recoveries in accordance with law.

After passing of the order dated 30.1.2009 (Annexure P-2), the petitioner (in CWP No.8577 of 2007) expired on 18.4.2009 as per the death certificate (Annexure P-3). In compliance of the order dated 30.1.2009 (Annexure P-2), an amount of Rs.3,91,752 was paid vide cheque No. 628324 dated 20.5.2009 after making a recovery of Rs.1,86,594/-. The petitioner issued a legal notice dated 27.7.2009 (Annexure P-4), to which the respondents furnished a reply dated 7.8.2009 and along with the said reply a cheque dated 6.8.2009 for Rs.1,12,660/- towards payment of interest was also enclosed. In this reply, details of recoveries of Rs.1,86,594/- as made out of the total due amount of Rs.5,78,347/- were furnished.

The petitioner filed COCP No.2134 of 2010 in this Court for punishment of the Managing Director of the respondent-Nigam for effecting the said recoveries despite the order dated 30.1.2009 (Annexure P-2) passed by this Court. This contempt petition was disposed of vide order dated 16.11.2010 (Annexure P-5) giving liberty to the petitioner to impugn the recoveries in accordance with law and

hence the present writ petition. The petitioner is seeking setting aside of the order dated 07.08.2009 (Annexure P-1) on the ground that no notice as contemplated under the regulations 7 and 8 of the Punishment and Appeal Rules 1990 (Annexure P-6) was served upon the petitioner. The petitioner's husband expired on 18.4.2009 and after his death, no proceedings for recovery could have been initiated against him and hence the recovery could not be effected.

In the written statement filed on behalf of the respondents, details of the recovery effected from the retiral benefits has been given as under:

- (i) An amount of Rs.27,926/- of husband of the petitioner has been withheld on account of shortage of material. The petitioner was duly informed with regard to the said shortage vide Notice dated 21.4.2008 which was received by him on 24.4.2008. Out of the said amount, Rs.12,426/- has been withheld on account of excess calls having been made by him from official mobile phone given to him by the respondents.
- (ii) An amount of Rs.45,948.50/- was withheld on account of non fatal accident and missing parts as intimated by Chief Auditor, Panchkula vide memo dated 06.02.2007.
- (iii) Further an amount of Rs.5000/- has been recovered and withheld by C.A.O (Pension), UHBVNL on account of the fact that the delinquent employee has not submitted

vacation report of the Government accommodation held by him.

(iv)Further an amount of Rs.59,730/- has been withheld on account of missing parts of the transformer etc. attributable to the husband of the petitioner and intimated by Executive Engineer (Op. Division), UHBVN, Narayangarh vide Memo dated 05.05.2005.

(v)An amount of Rs.4,666 has been withheld on account of missing parts as intimated by the respondent, Sub Urban Division, Jagadhari for the year 1995-96.

(vi)Further an amount of Rs.39,734/- has been recovered and withheld from the retiral dues of the husband of the petitioner on account of stoppage of increments and in pursuance to the charge sheet issued to him for releasing tubewell connection to a resident of Jagadhari without installation of any meter. The said recovery has been effected by Chief Engineer (Operation) UHBVNL, Panchkula vide office order dated 13.9.2005, 09.12.1999, 25.7.2007.

(vii)Further an amount of Rs.3600/- has been withheld on account of non fatal account and compensation recovered from his salary to be paid to the injured/deceased as intimated by XEN (Op.) UHBVNL, Pehowa dated 13.5.2008.

Except for recovery of Rs.39,734.70/- which has been effected by way of passing punishment order, rest of the recovery had been effected without passing any punishment order. Hence after reducing an amount of Rs.39,734.70/- from Rs.1,86,594/-, the rest of the amount could not be recovered without following due departmental procedure as per Regulations 7 and 8 of the Punishment and Appeal Rules 1990 (Annexure P-6).

Having regard to the aforesaid, present petition is allowed. An amount of **Rs.1,46,859.30** should be paid to the petitioner by the respondent-Nigam within a period of three months from the date of receipt of a certified copy of this order along with 9% interest w.e.f the date the retiral dues became payable to the petitioner i.e three months after the date of retirement.

April 05, 2016  
*ritu*

( **RITU BAHRI** )  
**JUDGE**