

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

CWP No.6756 OF 2014
DATE OF DECISION : 1st JUNE, 2016

Partap Singh

.... Petitioner

Versus

State of Haryana & others

.... Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

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Present : Mr. Narinder Singh Behgal, Advocate for the petitioner.

Mr. M. S. Sidhu, Addl. A.G. Haryana.

Mr. Pardeep Singh Poonia, Advocate for the respondents.

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RITU BAHRI, J. (ORAL)

The petitioner is seeking directions to the respondents for quashing of the order dated 17.12.2013 (Annexure P-5) whereby the benefit of step up granted by the Department has been withdrawn and further recovery of ₹58,816/- has been effected from his retrial benefits.

The petitioner was retired as Meter Reader on 30.04.2012 from the Sub-Division Taravari, Karnal. The petitioner was given the benefit of stepping up in the ACP matter w.e.f. 01.04.1996 at par with his junior Sham Lal vide order dated 24.08.2009 (Annexure P-1). Thereafter, vide order dated 10.06.2013 this benefit has been withdrawn as per the notification of the Government dated 23.06.2009 (Annexure P-4). After withdrawal of the benefits, recovery of a sum of ₹1,48,614/- on account of difference in pay and a sum of ₹86,378/- on account of difference of pension has been made

from the petitioner the details of which are at Annexure R-2, in view of Haryana Government notification dated 23.06.2009 (Annexure P-4) which has been adopted by Nigam vide memo dated 13.01.2010.

In the written statement respondents No.2 to 5 in paragraph 4 has stated that the petitioner submitted his pension papers on 16.04.2012. The recovery of ₹58,816/- was sought to be made on account of revenue audit as indicated by the Chief Auditor UHBVNL, Panchkula in the revenue audit para vide memo dated 19.04.2012 (Annexure R-5). A sum of ₹18,644/- was settled out of the above said recovery and this amount was paid to the petitioner vide cheque No.226923 dated 17.10.2014. Hence, the recovery has now been effected of almost ₹40,000/-.

The petitioner is drawing payment of interest on the delayed payment of retrial benefits. In the written statement it is stated that the petitioner was paid his pensionary benefits (GPF etc.) on 25.05.2012 except DCRG, leave encashment and commutation of pension. Thereafter, on 05.06.2014 (Annexure R-4) he was granted 100% pension and on 21.07.2014 a payment of ₹4,63,416/- has been made on account of gratuity as per Annexure R-6.

With regard to the first claim the issue has been answered in favour of the petitioner. In the case of ***Rajender Singh vs Uttar Haryana Bijli Vitran Nigam & another*** passed by this Court in ***CWP No.6741 of 2013*** vide order dated 29.01.2016, the withdrawal of benefits has been set aside and the benefit of stepping up of pay scale at par with the junior was granted and the amount of recovery was ordered to be returned back to the petitioner in terms of the judgment dated 08.01.2015 passed by this court in ***CWP No.25750 of 2013*** titled ***Rajbir Singh vs. Uttar Haryana Bijli Vitran***

Nigam Limited & Others. Hence, this claim of the petitioner was allowed in terms of the above judgment.

It is not the case of the respondents that before making this recovery any show cause notice was issued to the petitioner or any reply was sought from him. In the written statement it is stated that an amount of ₹18644/- was settled after the petitioner has presented his case. Presentation of the case does not amount to giving an effective opportunity. Recovery has been made without following the proper procedure of law.

As per details of payment vide Annexure R-6 an amount of ₹4,63,416/- has been paid on 21.07.2014 on account of gratuity and on 25.05.2015 GPF has been paid and thereafter commutation and 100% pension was paid on 05.06.2014.

For the reasons recorded above, the writ petition is allowed and letter dated 17.12.2013 (Annexure P-5) is quashed and the respondents are directed to return the recovered amount of ₹58,816/- within a period of three months @9% per annum from the date of his retirement.

1ST JUNE, 2016
‘raj’

(RITU BAHRI)
JUDGE