

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.7984 of 2015

Date of Decision:- 20.05.2016

Satbir Singh

....Petitioner

Versus

U.H.B.V.N.L. and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.S. Malik, Advocate
for the petitioner.

Mr. Abhilaksh Grover, Advocate
for respondent Nos.1 to 3.

RITU BAHRI, J. (Oral)

Petitioner is seeking quashing of the letter dated 22.09.2014 (Annexure P-1) by which the recovery of the excess amount has been effected from him.

Petitioner was appointed as a Work Charge T-mate on 01.10.1979 and thereafter he was regularized as T-Mate on 14.05.1993. On 25.07.1997, he was promoted to the next higher rank as ALM and thereafter he reverted back to the post of T-Mate on 17.11.1997. He was again promoted as ALM on 10.01.1998 in the pay scale of 4000-100-6000 and the petitioner was drawing the basic pay of ₹4400/- in January, 2002. The basic pay of the petitioner was reduced from ₹4400/- to ₹4000/- as the pay was

date and the recovery of the excess amount of ₹1,38,857/- was effected from the petitioner. Petitioner retired on 30.11.2014 and thereafter respondent No.3 issued the letter dated 16.12.2014 (Annexure P-2) against the petitioner regarding outstanding amount, which had been effected from him.

The respondents in the written statement have clarified that the re-fixation of the pay was done by the Superintendent Engineer (Op.) Circle UHBVNL, Sonapat, vide order dated 17.05.2005, by which the deemed date of promotion of the petitioner as ALM was changed from 1998 to 2002. Once the deemed date of promotion has been changed, the petitioner was not given the benefit of basic pay scale of 4000-100-6000 with effect from June, 2002 and thus the recovery has been justified from the petitioner. It is admitted that after retirement of the petitioner on 30.11.2014, vide letter dated 16.12.2014 (Annexure R-2), the outstanding amount has been recovered from him.

Reference at this stage can be made to instructions issued by the Additional Chief Secretary to Government Haryana, Finance Department, Haryana on 23.02.2016, which have been issued in compliance of the judgment of the Hon'ble Supreme Court in Civil Appeal No.11527 of 2014 titled State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc. whereby it has been decided that the recovery of excess amount cannot be made in the following cases: -

- “(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).
- (ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.
- (iii) Recovery from employees, when the excess payment has been made for a period of excess of five years, before the date of recovery is issued.

- (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.
- (v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”

As per above said instructions, the case of the petitioner falls in Condition No.2 and fully covered by the above said instructions, as the petitioner retired on 30.11.2014 and the recovery has been made from him, vide letter dated 16.12.2014 (Annexure R-2).

In view of above, the present writ petition is allowed and direction to the respondents to make payment of recovered along with 9% interest from the date of recovery till the payment is being made.

May 20, 2016
naresh.k

(**RITU BAHRI**)
JUDGE