IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 258

Date of Decision: *October 06, 2017*

1. Civil Writ Petition No.23198 of 2015 (O & M)

Khazan Chand & others

..... PETITIONERS

VERSUS

State of Punjab & others

..... RESPONDENTS

. . .

2. Civil Writ Petition No.27097 of 2015 (O & M)

Hardev Singh Rattan & others

..... PETITIONERS

VERSUS

State of Punjab & others

..... RESPONDENTS

. . .

3. Civil Writ Petition No.6896 of 2016 (O & M)

Harnek Singh & others

..... PETITIONERS

VERSUS

State of Punjab & others

..... RESPONDENTS

. . .

4. Civil Writ Petition No.18615 of 2016 (O & M)

Pyara Lal & others

..... PETITIONERS

VERSUS

State of Punjab & others

..... RESPONDENTS

. . .

5. **Civil Writ Petition No.19554 of 2016 (O & M)**

Dev Raj Goyal & others

..... PETITIONERS

VERSUS

State of Punjab & others

..... RESPONDENTS

. . .

6. **Civil Writ Petition No.5190 of 2017 (O & M)**

Gursimrat Singh & others

..... PETITIONERS

VERSUS

State of Punjab & others

..... RESPONDENTS

. . .

7. **Civil Writ Petition No.15582 of 2017 (O & M)**

Sardara Singh & others

..... PETITIONERS

VERSUS

State of Punjab & others

..... RESPONDENTS

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CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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PRESENT: - Mr. Vivek Aggarwal, Advocate and Mr. Sunny Singla, Advocate, for the petitioners.

Ms. Jasleen Kaur Sidhu, Assistant Advocate General, Punjab.

Mr. Anil K. Ahuja, Advocate, for respondent No.2 (in CWP No.23198 of 2015) and respondent Nos.2 to 5 (in CWP No.27097 of 2015).

Mr. Aman Sharma, Advocate, for respondent No.5 (in CWP No.23198 of 2015) and respondent No.8 (in CWP No.27097 of 2015).

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Jaspal Singh, J

This judgment shall dispose of the aforesaid batch of writ petitions as they involve similar questions of facts and law.

The instant petitions have been filed under Article 227 of the Constitution of India for issuance of a writ in the nature of certiorari, quashing the action of respondent – banks in making the recovery of amount of Leave Travel Concession (LTC) paid to petitioners, in a totally illegal and arbitrary manner without issuing any show cause notice and without giving any opportunity of hearing. Further prayer has been sought for issuance of a writ of mandamus, directing the respondent – banks to stop making recoveries from the accounts of the petitioners and to refund the amount already recovered illegally and arbitrarily alongwith interest @ 18%.

For proper adjudication of the matter in controversy, it would be relevant to reproduce order dated October 31, 2015 passed by a co-ordinate Bench of this Court at the time of issuance of notion of motion, which reads as under:-

> "The petitioners retired from Punjab Government service prior to 01.01.2006. The recoveries have been effected from their pensions/accounts in the year 2011 regarding Leave Travel Concession (LTC) of the journeys which they undertook while they were in service. On the instructions of Punjab Government, the banks where the pension accounts of the petitioners were

operated, they have already recovered different amounts as tabulated in Annexure P-5 from all the petitioners, which are either in four or low five figures.

It is argued that recoveries could not have been effected even assuming that one value of the Leave Travel Concession (LTC) was given by mistake by the government, in view of law laid down in authority **"State of Punjab vs. Rafiq Masih (White Washer)" AIR 2015 SC 696**.

It is not out of place to mention that the 31 petitioners before the Court neither misrepresented nor committed fraud nor practiced deceit in utilizing the concession of leave travel during their service. In the present case, there is not even a mistake or error in grant of Leave Travel Concession (LTC) which was available to them in the then prevailing law prior to 01.01.2006 and if any changes have come thereafter and if any instructions have been issued by the government, they would not apply to the petitioners and therefore, ex facie, in view of this situation, the recoveries could not have been effected and the said recoveries either by the government or by the Banks at its counters is illegal. The Banks where the pension accounts of the petitioners are maintained, are arrayed as respondents No.2, 5, 6 and 7, while some of the petitioners operate their pension through the District Treasury Officer, Sangrur.

Notice of motion returnable by 03.03.2016.

In view of the law laid down in **State of Punjab's case (supra)** and **"Chandi Prasad Uniyal vs State of Uttrakhand and others" 2012 (8) SCC 417**, an interim mandamus is issued to respondents No.2 to 7 to refund the amounts mentioned in Annexure P-5 to the respective petitioners/pensioners by taking an indemnity bond that in case of the failure of this writ petition, the amounts will be returned to Treasury with interest @ 6% per annum. However, the amounts which are put back, would be free for use of the subscribers/account holders since the amounts are small and all are less than ₹12,876/- (S.No.10 Jagish Chand Bansal through his wife Santosh Kumari mentioned in Annexure P-5).

The copy of this order be supplied to learned counsel for the petitioners dasti."

4. Pursuant to the aforesaid order, respondents – banks have refunded the amount to the petitioners, recovered from their pension

account(s) as is clear from the reply filed on behalf of respondent Nos.1 to 3 (in CWP No.23198 of 2015). In reply, the case set up by the respondents – State is that petitioners have relied upon Government Instruction dated August 17, 2009, which provides that no recovery of LTC is to be effected from the pre January 01, 2006 retirees. The petitioners have admittedly retired prior to January 01, 2006 but on account of misinterpretation of the aforesaid Instructions, the banks have recovered the arrears of LTC from the accounts of petitioners despite the fact that there was no such direction for recovery from the State to them and further that recovery of LTC amount(s) has been made by the respondent - banks from the petitioners' pension accounts at their own level.

Moreover, aforesaid action of the respondents – banks is also against the principles of natural justice as no notice was ever served upon the petitioners and no opportunity of hearing was afforded to any of them. In this view of the matter, this Court is of the opinion that action of the respondents – banks in making recovery of the amount of LTC paid to the petitioners was illegal and arbitrary. The amount recovered by the banks on account of wrong appreciation of Letter dated October 31, 2015 has already been refunded. In case the amount has not been refunded, the same be refunded. However, the petitioners are entitled to interest @ 9% per annum from the date of recovery till the actual repayment of the amount as well as refund of amount recovered if not already paid within two months of the date of receipt of a certified copy of this judgment. However, it is made clear that the banks are held liable to pay the amount of interest on the recovered amount. On failure in complying with this order, petitioners would at liberty to approach this Court.

All the petitions stands disposed of accordingly. No costs.

(Jaspal Singh)
Judge

October 06, 2017
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Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No