

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

CWP No.16638 of 2013 (O&M)

Date of decision: 16.03.2018

Babu Ram

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Ms. Harpinder Kaur Sandhu, Advocate for the petitioner(s).

Ms. Sudeepti Sharma, Addl. A.G., Punjab.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner(s) seek(s) issuance of a writ in the nature of certiorari for quashing the impugned order dated 15.05.2013 (Annexure P-3) to the extent of recovery of Rs.65610/- effected from the petitioner.

It is contended that the petitioner, a Multipurpose Supervisor (M) joined the service on 04.07.1976. The petitioner was given the benefit of proficiency step-up increments on completion of 8/18 years and 16/24 of regular service, in view of the notifications issued by the State of Punjab from time to time. Thereafter, a clarification was issued by the Punjab Government to the effect that the benefit of proficiency/ACP scheme are to be given by counting the service w.e.f. 01.01.1986 and in view of the clarification, the benefit of ACP of 16/24 years of service given to the petitioner was withdrawn and the recovery

was effected from the petitioner. It is asserted that the act of the respondents is illegal and arbitrary as the wrong, if any, had been committed by the respondents and not on any misrepresentation of the petitioner.

On the other hand, learned State counsel states that the recovery was effected when the petitioner was in service as the benefit of proficiency step up/ACP had been inadvertently granted to the petitioner.

Heard, learned counsel for the parties and perused the record.

The petitioner retired as Assistant Unit Officer on 30.06.2012. The recovery of the amount in question has already been effected while the petitioner was in service. The amount in question was paid to the petitioner in view of the benefit of proficiency step-up increments on completion of 8/18 years and 16/24 of regular service in view of the notification issued by the State. Subsequently, the same was withdrawn. Thus, there is no evidence on record that the amount in question was received by the petitioner on any misrepresentation made by him.

It has also come on record that the Department of Finance, Govt., of Punjab (Finance Pension Policy and Coordination Branch) issued circular dated 05.10.2012 laying down the guidelines for effecting the recovery of the benefit which has been granted to an employee inadvertently. While the petitioner was in service, it had come to the notice of the petitioner that the benefit of proficiency step up/ACP had been inadvertently granted to him and in view of the instructions issued

by the Government, the pay of the petitioner after making necessary correction was re-fixed w.e.f. 01.01.1986 to 30.06.2009 by the Senior Medical Officer, In charge Primary Health Centre, Khui Khera, vide order dated 15.10.2010 (Annexure R-1). The petitioner admittedly retired on 30.06.2012, therefore, the factum of recovery was already in the knowledge of the petitioner. Neither the petitioner assailed the order dated 15.10.2010 (Annexure R-1) nor approach the higher authorities against the said order. The case of the petitioner is not covered by the circular dated 05.10.2012 (Annexure R-2) wherein guidelines were laid down for effecting the recovery of the benefit which had been granted to an employee inadvertently. Clause 5(e) lays down that the cases relates to such those recipients wrongly paid benefits who have either retired or are on the verge of retirement or who are employed in the lower rung services i.e. in 'Group D' services. The recovery in such cases will be waved with the specific approval of the Department of Finance. The case of the petitioner does not fall in the category of employees falling within Clause 5(e) of Annexure R-2. As the petitioner did not avail any remedy of departmental appeal, representation or revision against the impugned order which has now attained finality despite being specifically in the knowledge of the petitioner while he was in service. Accordingly, the present petition is dismissed.

16.03.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No

