

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

(201)

CWP-18702-2016

Date of Decision: November 21, 2018

Krishana

..Petitioner

Versus

Managing Director and others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. N.S. Behgal, Advocate, for the petitioner.

Mr. Abhilaksh Grover, Advocate, for respondents No. 1 to 6.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present case, the petitioner is impugning the order Annexure P-1 by which the recovery was being effected from the petitioner on the ground that the pension of the husband of the petitioner was wrongly fixed.

In the petition, the petitioner has stated that the husband of the petitioner was working as lineman and died during service on 26.09.1987. Thereafter, the petitioner was being paid the family pension. By the impugned order, the respondents recalculated the family pension on the basis of an audit report on the ground that the petitioner was being paid excess family pension for the period 01.04.2014 to 31.03.2015 and sought to recover an amount of Rs.4,27,178/-.

Upon notice of motion, the respondents have filed the reply and the justification for recovering the amount given in the reply is that audit team was auditing the accounts, pointed out that excess family pension was being paid to the petitioner, which should be recovered. There is nothing in

the reply that there was any fraud or misrepresentation on behalf of the petitioner. Further, the respondents themselves fixed the family pension of the petitioner, which they now wanted to revise after the audit objection.

It is settled proposition of law that recoveries from Class III and IV employees cannot be effected as the same will cause undue hardship to them.

In the present case, there is no allegation of misrepresentation or fraud played by the petitioner to secure the said amount. It is an admitted case that it was the respondents themselves, who initially fix the family pension of the petitioner and then sought to revise it on the ground of audit objection.

Under these circumstances, in view of the law laid down by the Hon'ble Supreme Court of India in **State of Punjab and others Vs. Rafiq Masih, 2015 (1) SCT 195**, the recovery that is sought to be made from the petitioner, is illegal and contrary to law.

In view of the above, the impugned order Annexure P-1 is set aside. In case any recovery has been made from the petitioner, the same shall be refunded within a period of three months from the date of receipt of the copy of this order.

The writ petition is allowed, in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

November 21, 2018
harsha

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No