

CWP No.13775 of 2018

[1]

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

Sr. No.126

**Civil Writ Petition No.13775 of 2018
DECIDED ON: May 29, 2018**

TEJA SINGH

..PETITIONER

VERSUS

**THE PUNJAB STATE POWER CORPORATION LIMITED, THE
MALL, PATIALA AND OTHERS**

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. J.S. Jaidka, Advocate,
for the petitioner.

JASPAL SINGH, J.

Through the instant civil writ petition, preferred under Article 226 of the Constitution of India, petitioner-Teja Singh has sought issuance of a writ in the nature of Certiorari for quashing the illegal recovery being effected from his pension as portrayed by entries of his pension account (P-2) without issuing any notice/undertaking any proceedings AND further directing the respondents not to effect recovery from his pension during the pendency of instant petition.

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2. Undisputably, petitioner stood as guarantor for his colleague Gurcharan Singh son of Balwant Singh who had taken the financial assistance/loan on his pension in the year 2015. Said Gurcharan Singh has since been taken away by the nature on 27.04.2017 and after his demise, respondents have started effecting recovery from pension of the petitioner.

3. The contention of learned counsel for the petitioner is that after the demise of Gurcharan Singh, respondents were duty bound to grant family pension to his wife namely Surinder Kaur and from the family pension, respondents were justified in recovering the amount of loan availed off by aforesaid Gurcharan Singh. But instead of recovering the amount from the family pension of his wife, they have started effecting the recovery of the loan by way of instalments from the pension of the petitioner.

4. Here it would be pertinent to mention that the petitioner admittedly stood guarantor for repayment of loan obtained from pension by Gurcharan Singh. The guarantor as well as borrower/loanee are legally bound to repay the loan amount. In the instant case, on account of certain reasons, family pension has not so far been granted to the wife of late Sh. Gurcharan Singh. It has been pointed out by learned counsel for the petitioner during the course of arguments that wife of late Sh. Gurcharan Singh namely Surinder Kaur has filed a civil suit claiming family pension, which is pending adjudication before Civil Court and that cannot be made a ground for non-payment of the loan amount outstanding against late Sh. Gurcharan Singh for which, the petitioner stood guarantor. Otherwise

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also, liability of the petitioner is joint and several. After the demise of Gurcharan Singh, it can be legally recovered from the petitioner-guarantor.

5. As no family pension has since been granted to Surinder Kaur wife of late Sh. Gurcharan Singh, no recovery can be effected by the respondents from her, whereas petitioner being guarantor is legally as well as morally liable to repay the amount outstanding against Sh.Gurcharan Singh on account of having availed of loan facility from his pension. Thus, there is no infringement of any legal right of the petitioner entitling him to approach this Court by way of instant petition.

6. Dismissed.

7. No order as to costs.

May 29, 2018

Ankur

**(JASPAL SINGH)
JUDGE**

Whether speaking/reasoned

Yes

Whether reportable

Yes/No