

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

Sr. No.211

**LPA No.2092 of 2016 (O&M) in
CWP No.13695 of 2015
Date of decision: 24.05.2018**

Krishna Devi @ Kishni

....Appellant

versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE DEEPAK SIBAL**

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Present: Mr. Ravinder Malik (Ravi), Advocate
for the appellant.

Ms. Tanisha Peshawaria, DAG, Haryana.

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RAJESH BINDAL, J.

The appellant had filed the writ petition challenging the order passed by the authorities whereby old age pension granted to her was discontinued and recovery of the amount already paid to the extent of ₹ 63,982/- was ordered. The late husband of the appellant was serving in Royal Indian Army, Regiment No.F/2894. He died on 29.07.2008. The appellant being eligible was drawing pension in terms of Old Age Allowance Scheme, 2005, notified by the State of Haryana. There is no dispute that when the old age pension of ₹ 300/- per month was granted to the appellant, she was eligible for that. The only issue raised in the present appeal or in the writ petition was whether after the death of the husband of the appellant on 29.07.2008, the appellant could receive old age pension of ₹ 300/- per month in addition to family pension. It may be noticed that the

action to withdraw old age pension to the appellant was taken by the authorities on a complaint made by a co-villager.

Learned counsel for the appellant does not dispute that after the death of the husband of the appellant, who was serving in Royal Indian Army and expired on 29.07.2008, the appellant started getting the family pension. Thereafter, she may not be entitled to get the old age pension. However, being an old age lady, she did not know about that and continued getting the old age pension @ ₹ 300/- per month as well. Learned counsel for the State does not dispute that payment of old age pension was stopped to the appellant from January 2015 onwards.

The only issue in the present appeal is pertaining to recovery of the amount already paid from August 2008 till December 2014. The amount as assessed is ₹ 44,650/-. However, adding interest @ 12% per annum thereon, the total demand raised against the appellant is ₹ 63,982/-.

Keeping in view the age of the appellant, she being not at fault; a widow and further that her husband was serving with Royal Indian Army, at this stage; we consider it to be iniquitous and harsh to uphold recovery of the aforesaid amount from her. Hence, the recovery of the amount already paid is set aside. However, in future as conceded by the appellant, she will not be entitled to receive any old age pension.

For recovery of ₹ 44,650/- which was paid to the appellant, a senior citizen, whose husband was an Ex-serviceman as he served with Royal Indian Army, the State compelled her to indulge in the present litigation. She had to file the writ petition in this Court and thereafter, the present intra-court appeal. Even by its own instructions issued by the Department on 23.02.2016 regarding recoveries of excess payment

from the Government employees, it is mentioned that in case of recovery of any amount which has already been paid to an employee equitable balance be maintained.

In the present case, due to the insensitiveness of the officer concerned, the appellant has been forced to challenge the orders passed. Hence, we deem it appropriate to burden the State with the cost of ₹ 25,000/-. This amount shall be directly transferred in the account of the appellant within a period of two months from today.

(Rajesh Bindal)
Judge

(Deepak Sibal)
Judge

May 24, 2018

Jyoti 1

Whether speaking/reasoned	Yes/No
Whether reportable	Yes