IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16668-2016
Date of Decision: - 22.01.2019

Roop Lal

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Ms. Sonia G. Singh, Advocate
for the petitioner

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the petitioner is claiming that the amount of ₹32,851/-, which has been deducted from his pensionary benefits is not legal and he prays that the same amount should be refunded to him.

As per the facts mentioned in the writ petition, petitioner retired as SLA from Government College, Sri Muktsar Sahib on 30.09.2009. A sum of ₹32,851/- was deducted from GPF of the petitioner on the basis of a loan, amounting to ₹2,800/-, which he had taken in the year 1984. The said deduction was made on the ground that the petitioner failed to repay ₹2,800/- and by adding the interest upto 30.09.2009, total amount due from him became ₹32,851/-, which was deducted from his retiral benefits.

Counsel for the petitioner contends that the said deduction is factually incorrect for the reason is that the petitioner had already paid a sum of ₹2800/- in 20 monthly installments, amounting to ₹140/- each, starting from December, 1984 till July, 1986. Therefore, the deduction of the said amount is totally arbitrary and illegal and is against the facts.

Counsel for the petitioner further contends that before making the said recovery, no notice whatsoever was given to the petitioner in this regard.

Upon notice of motion, the respondents have put in appearance and have filed their respective replies.

In the replies, the respondents have admitted their mistake. As per reply of respondents No.1, 2 in paragraphs 3 and 4 in the preliminary submissions, the respondents themselves had admitted that as per the report received from the Principal, Government College, Sri Muktsar Sahib, the amount had already been deposited back, but while calculating the pensionary benefits, the Accountant General, Punjab inadvertently failed to take into account the said fact and calculated an amount of ₹32,851/- to be paid by the petitioner on account of the loan of ₹2800/- plus interest of ₹30,051/- and the said amount has been recovered. The relevant paragraphs 3 and 4 of the reply is as under: -

> "That it is submitted an advance to the tune of ₹2800 was obtained as refundable advance by the petitioner in the year of 1984. As per information received from the Accountant General, Punjab, Chandigarh vide their letter No.Fds/Edu.Pb./13-14/1815, dated 19.03.2014 (Annexure R-1) the advance of rupees 2800/- in

> 12/1984 neither appeared nor deducted while transferring the GPF final balance amounting to Rupees 22319/- in respect of Roop Lal and this amount has not been actually deducted from the account of the petitioner and this amount remained in the account of the petitioner and interest was also given on this amount, which has been calculated as ₹30051/-. This amount of advance which was obtained by the petitioner has been deducted from the final payment of GPF of the petitioner along with interest.
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> 4. It is further clarified that as per the information received from the Principal Government College, Shri Muktsar Sahib, advance amount was paid to the petitioner on 11.02.1984. This amount was deducted w.e.f. 12/1984 to 7/1986 in 20 installments amounting to ₹140/- each. However, this advance amount was not deducted by the Accountant General, Punjab while transferring the final GPF advance of the petitioner. As such this amount remained in the GPF account of the petitioner which has been deducted amounting to ₹(2800+30051) = 32851 along with interest at the time of final payment on retirement of the petitioner.

Once, the respondents have realized their mistake, it was incumbent upon the respondents to return the amount which was wrongly deducted from the pensionary benefits of the petitioner. Further, the amount has already been received by the respondents themselves as far back as in July, 1986 and it was on the basis of mistake of the Accountant General, Punjab that the return of the said amount was not noticed and given credit to while calculating the pensionary benefits to the petitioner.

Now, in view of the reply reproduced hereinabove, the respondents themselves had admitted that the amount of ₹2,800/- had already been deposited by the petitioner in 20 monthly installments, amounting to ₹140/- each and therefore, the deduction of ₹32,851/-, which was made by the respondents is by mistake.

Further, in case any deduction was to be made from the pensionary benefits of the petitioner, he should have been given a show-cause notice in this regard and his comments should have been asked for. Had just an proper procedure followed, the petitioner would have informed the respondents about the return of the money, which according to the respondents, has not been returned so far. Even for making the recovery, the rules of natural justice are to be followed, which have been violated in the present case.

In view of the above, the recovery of ₹32,851/-, which has been done from the pensionary benefits of the petitioner, is held to be bad and the respondents are directed to refund the same to the petitioner within a period of one month from the date of receipt of a certified copy of this order alongwith interest @ 9% per annum.

Present writ petition stands allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

January 22, 2019
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? No