

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

206

CWP No.4422 of 2014 (O&M)

Date of decision: 06.03.2019

Gurdev Singh(since deceased) through LRs

..Petitioner

Vs.

State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

**Present: Mr. G.S. Bal, Sr. Advocate with
Ms. Loveinder Kaur, Advocate
for the petitioner.**

Mr. Mehardeep Singh, Addl. AG, Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which has been raised by the petitioner is that by order Annexure P-5 dated 12.11.2013, the pay of the petitioner was refixed in view of order Annexure P-1 dated 19.08.1992 and recovery of Rs. 10,80,547/- was done from the retiral benefits of the petitioner.

As per the facts mentioned in the writ petition, petitioner joined as a patwari in the Punjab Revenue Department on 25.07.1985. He remained posted at various places. During the period when the petitioner was posted at Gurdaspur, he remained absent from duty from 09.10.1990 till 16.10.1990, for which a charge sheet was served upon the petitioner on 28.11.1990. After holding the regular enquiry into the allegations, the charges against the petitioner were proved. By order dated 19.08.1992, a penalty of reducing the salary of the petitioner to the lower stage for a period of 5 years and the future increments of the petitioner

were stopped. Against the said order, the petitioner filed an appeal being service appeal No. 27 before the Commissioner, Jalandhar Division, who rejected the said appeal on 14.11.1996.

As per the averments made in the petition, against the said order, by which the appeal of the petitioner was rejected by the Commissioner, Jalandhar Division, Jalandhar, petitioner preferred a revision petition before the Financial Commissioner, Revenue, Government of Punjab. The said revision was filed on 06.01.1997. Petitioner has averred in the writ petition that as the petitioner had filed a revision petition, the order dated 19.08.1992 imposing the penalty upon him was not implemented and petitioner continued getting the increment and even his salary was not reduced as per the punishment order dated 19.08.1992. Petitioner retired from service on attaining the age of superannuation on 30.06.2013. While calculating the pensionary benefits of the petitioner, the respondents came to know about the order dated 19.08.92 and respondents implemented the order dated 19.08.1992 and refixed his salary as per the said order. The refixation was done on 18.11.2013 and by reducing the salary, the respondents calculated an amount of Rs. 10,80,547/- which was paid in excess to the petitioner on non implementation order dated 19.08.1992 (Annexure P-1). The said order dated 18.11.2013 is under challenge in the present writ petition.

Upon notice of motion, the respondents have filed reply to the writ petition in which it has been stated that the order dated 19.08.1992 by which the punishment was imposed upon the petitioner, has already attained the finality as the appeal against

the same was dismissed by the competent authority on 14.11.1996 and, therefore, the pay of the petitioner has rightly been refixed in view of the said order and the amount which the petitioner drew more than his entitlement has already been recovered from the pensionary benefits of the petitioner. In reply, the filing of the revision petition by the petitioner, as being alleged in the writ petition, has been denied.

During the pendency of the petition, the petitioner died on 19.08.2016 and his legal heirs have been brought on record, who are pursuing the present writ petition.

Senior counsel appearing on behalf of the petitioner states that though, it is being disputed by the respondents at this stage that no revision petition was filed but in fact appeal was filed. Senior counsel argued that when writ petition was filed in the year 2014, the copy of the said revision petition was duly attached with the writ petition being Annexure P-3. Senior counsel states that even at this stage, the petitioners will be satisfied in case, any decision is taken by the respondents on the said revision petition in time a bound manner.

Counsel for the respondents states that the State will pass an appropriate order on the said revision petition though, it is again submitted that no such revision petition was filed by the petitioner or is pending consideration.

Counsel for the respondents states that the recovery has already been done from the pensionary benefits of the petitioner and in case, any relief is granted by the Financial Commissioner while deciding the revision petition, the same will be given effect

in an appropriate manner. He undertakes that the appropriate order will be passed deciding the revision petition within a period of three months from the receipt of copy of this order and the same will be conveyed to the legal heirs of the petitioner.

Keeping in view the undertaking given by counsel for the respondents, the present writ petition is disposed of with the direction to the respondents to pass appropriate orders on the revision petition Annexure P-3 within a period of three months from the receipt of the copy of this order. It will be appreciated in case any of the legal heirs of petitioner is given opportunity of hearing before passing the order on the revision petition.

In case, the legal heirs of the petitioner are found entitled for any benefit upon the decision rendered on the revision petition filed, the same shall also be extended to the legal heirs of the petitioner within a period of three months after the passing of the said order.

Disposed of.

March 06, 2019

Poonam Sharma

**(HARSIMRAN SINGH SETHI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No