

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(219)

CWP No. 10108 of 2016
Date of Decision : 16.05.2022

Meena Kumari

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Umesh Narang, Advocate for the petitioner.

Mr. Narender Singh Behgal, A.A.G., Haryana.

Harsimran Singh Sethi J. (Oral)

In the present petition, the challenge is to the recovery order, which has been issued against the petitioner for recovery of an amount of ₹1,62,972/-.

As per the averments made in the present petition, the petitioner retired from service on attaining the age of superannuation on 31.03.2013. At the time, when the petitioner retired, she was having the charge of the School being the Head Teacher. During the tenure of the petitioner as Head Teacher, construction was being done in the school for which certain funds were allocated to be utilized in the construction being undertaken. Approximately, after one year and nine months after the retirement of the petitioner, on the basis of an assessment report, which was received on

11.12.2014, it was claimed that the petitioner has spent an extra amount by

showing extra purchase of material in view the construction raised at the site. Keeping in view the assessment report, ₹1,62,972/- was spent more than the money which should have been spent on the said construction. On the basis of the said report itself, without holding any enquiry or giving any show cause notice to the petitioner so as to prove the charges against the petitioner, the amount of ₹1,62,972/- was ordered to be deducted from her pensionary benefits. The said deduction order is under challenge in the present petition.

Upon notice of motion, respondents have filed the reply. In the reply, the respondents have mentioned that two rooms were being constructed in the school premises, where the petitioner was working as Head Teacher and the detailed work plan and the sanctioned amount on the construction undertaken shows that an excess amount of ₹1,62,972/- was spent by showing purchasing of extra material in bills which tantamount to gross negligence and misconduct. The respondents have submitted that on the basis of the said report itself, extra amount spent by the petitioner from the funds allocated for construction has been deducted from the pensionary benefits of the petitioner.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, the petitioner is being held negligent in spending the amount while undertaking the construction of two rooms in the school premises, where the petitioner was working as a Head Teacher. Once, the mis-conduct is being alleged, it becomes the duty upon the respondents to hold an enquiry into the same and prove the charge before

recovering any amount. In the present case, no enquiry has been held against the petitioner to pin point the charge that petitioner was negligent or she was responsible for spending extra amount from the funds allocated for construction to the tune of ₹1,62,972/-. Even in respect of the assessment report, on the basis of which report dated 11.12.2014, the recovery has been done, the petitioner was not associated and the said inspection report has been procured by the respondents at their own level.

Once, the petitioner has not been issued any show cause notice and no enquiry has been held into the allegation by associating the petitioner and nothing has been placed on record that petitioner was held guilty of the allegation on the basis of any evidence collected, the allegation of the fault/mis-conduct upon the petitioner, cannot be sustained. Once, a sum of ₹1,62,972/- has been deducted by alleging the mis-conduct, which has not been proved in accordance with law, no recovery of the said amount could have been done from the petitioner.

Keeping in view the above, the impugned order of recovery dated 11.04.2016 (Annexure P-9) is quashed. As no recovery has been done from the petitioner keeping in view the interim order passed in favour of the petitioner dated 20.05.2016, no further orders are required to be passed in the present petition.

Petition is allowed in above terms.

May 16, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

✓
Whether speaking/reasoned : Yes/No

✓
Whether reportable : Yes/No