

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(227)

CWP No. 24305 of 2019

Date of Decision : 09.03.2022

Kali Perumal and another

...Petitioners

Versus

State of U.T., Chandigarh and others

...Respondents

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. K.K. Saini, Advocate for the petitioners.

Mr. Suman Jain, Advocate for the respondents No. 2 to 4.

Harsimran Singh Sethi J. (Oral)

In the present petition, the prayer of the petitioners is not to recover the excess pension paid to them, which is sought to be recovered vide impugned order dated 07.12.2018 (Annexure P-1).

Learned counsel for the petitioners argues that as per the judgment of the Hon'ble Supreme Court of India in ***State of Punjab and others Vs. Rafiq Masih (White Washer) etc., 2015(1) S.C.T., 195***, no recovery can be effected from an employee, who has already retired and, therefore, the impugned recovery, which is being done from the petitioners is bad in law.

Learned counsel appearing on behalf of the respondents

submits that the present is a peculiar case where, petitioners continued to work with the respondent-department even after attaining the age of superannuation. Learned counsel for the respondents submits that petitioner No. 1 attained the age of superannuation on 31.08.1998 and petitioner No. 2 was to retire on 30.06.2000 but they continued to work till 06.07.2009. After the factum that the petitioners had already attained the age of superannuation, they were retired on 06.07.2009 but w.e.f. the date they attained the age of superannuation and their pensionary benefits were fixed starting from the date, on which they attained the age of superannuation and their pensions were calculated from the said date and also paid. Learned counsel submits that by the said act, the petitioners not only got a salary from the date they attained the age of superannuation till 06.07.2009 but also got the pension for the same period, which is not admissible and, therefore, as the petitioners had discharged their duties upto 06.07.2009, they were allowed to retain their salary for the said period but the pension, which was inadvertently paid to the petitioners upto 06.07.2009, is being sought to be recovered.

Learned counsel for the respondents submits that even at the time of the grant of pensionary benefits, the petitioners had already undertaken that in case, there is any ambiguity or any excess payment is paid to them, the same will be refunded back by them and, therefore, no fault can be found in the act of the answering respondents so as to recover the excess pension paid to petitioner No. 1 starting from 31.08.1998 to 06.07.2009 and in case of petitioner No. 2 from 30.06.2000 till 06.07.2009 and the same will be recovered in installments, as already being done from

the year 2018 onwards.

Learned counsel for the petitioners submits that in case, only the pension paid to the petitioners from 31.08.1998 till 06.07.2009 in case of petitioner No. 1 and in case of petitioner No. 2 from 30.06.2000 till 06.07.2009 is being sought to be recovered, the petitioners raises no grievance for the said action but submits that the same be recovered in installments as already being done by the respondents.

Learned counsel for the petitioners submits that petitioner No. 1 has, unfortunately, died and hence, petitioner No. 2 is also to be granted the family pension and deduction is to be made from the said family pension but the same may be done in installments as being already done.

Learned counsel for the respondents submits that once, the recovery is being done in installments, the same process will be followed even while recovering excess amount paid to petitioner No. 1 even after his death by deducting the same from the family pension to be granted in favour of petitioner No. 2.

Learned counsel for the petitioners submits that keeping in view the above, no grievance of the petitioners survives and the present petition may kindly be disposed of having been not pressed any further.

Ordered accordingly.

March 09, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No