

**RA-CW-400-2016 &
CM-15891-CWP-2016 in
CWP-6257-2011**

Dalip Singh

vs.

State of Haryana and others

Present: Mr. Sanjeev Gupta, Advocate for the non-applicant/petitioner.

Mr. Raman Kumar Sharma, Addl. A.G. Haryana
for the applicant-respondents.

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RA-CW-400-2016

The present writ petition was decided by a Coordinate Bench of
this Court on 01.08.2016 by passing the following order:-

“It comes out that two separate recovery orders have been issued; first was dated 7.1.2009 (Annexure-P-6), vide which the recovery of Rs. 2,80,700/- has been ordered. Vide another recovery order of the same date (Annexure-P-7), the recovery of Rs. 33,626/- has been ordered. The petitioner seeks release of retiral benefits. There is dispute between the parties as to which pensionary benefits have been released and which have not been released. In any case, the provisional pension has already been released.

It comes out that the petitioner has filed a civil suit, challenging the said recovery orders. In this way, the department, at the most, claims Rs. 2,80,700/- on account of first recovery order dated 7.1.2009 (Annexure- P-6) and Rs. 33,626/- on account of second recovery order dated 7.1.2009 (Annexure-P-7).

The learned counsel for the petitioner has submitted that the petitioner will be satisfied, if all the arrears are released to the petitioner, except this disputed amount. If the petitioner succeeds in the civil suit, the department will refund the same. Otherwise, the amount will stay with the department.

‘In view of the matter, the present writ petition is disposed of, allowing the department to retain the said amounts of Rs. 2,80,700/- and Rs. 33,626/-, as mentioned in the orders Annexures-P-6 and P-7, from the gratuity or leave encashment, as the case may be, and release the unreleased arrears and full pension to the petitioner, subject to the condition that if the civil suit is ultimately decided in favour of the petitioner, the department shall be

liable to refund the same with interest at the rate of 9%. Otherwise, the department can retain the same. Except the amounts, which the respondents are allowed to retain, on the remaining amount the respondents shall pay interest at the rate of 9% per annum from the date it became due till its payment.”

The present application has been filed by the applicant-State seeking review of the said order, wherein, it has been mentioned that there are certain recoveries, which are to be done from the petitioner, due to which, the benefit which is being sought could not be released.

Learned counsel for the applicant-respondent submits that according to his instructions approximately an amount of Rs.1.5 lacs is still to be recovered from the petitioner.

Learned counsel for the non-applicant/petitioner on instructions from the petitioner, who is also present in the Court, submits that petitioner has no objection in case, respondents calculate his entitlement, keeping in view the order dated 01.08.2016 passed by a Coordinate Bench of this Court and deduct the amount to be recovered from the petitioner, from the said arrears and pay the remaining amount to him.

Learned counsel for the applicant-respondents submits that keeping in view the said statement of the learned counsel for the non-applicant/petitioner, respondents will implement order dated 01.08.2016 passed by a Coordinate Bench of this Court firstly to calculate the arrears, for which, the petitioner is entitled for and will deduct the amount, which is approximately 1.5 lacs (actual amount might be a little less or more) and remaining amount will be released to the non-applicant/petitioner within a period of two months from the date of receipt of copy of this order.

**CM-15891-CWP-2016 in
CWP-6257-2011**

Learned counsel for the applicant-respondent submits that keeping in view the above, the present application may kindly be disposed of having been not pressed any further.

Ordered accordingly,

CM-15891-CWP-2016

Keeping in view the order passed in RA-CW-400-2016, no orders are required to be passed in the present application.

April 29, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE