IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

220/6

CWP-4829-2022 (O&M).
Date of Decision: 19.09.2023.

KRISHNA AND OTHERS

... Petitioners

Versus

UNION OF INDIA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: None for the petitioner.

Mr. S.K. Sharma, Senior Panel Counsel,
for respondent No.1/Union of India.

Mr. Vivek Chauhan, Addl. A.G. Haryana with
Mr. Om Parkash, District Social Welfare Officer,
Charkhi Dadri.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present writ petition filed by the petitioners is for seeking quashing of impugned orders (Annexures P-5 to P-12) respectively, whereby the Old Age Pension granted to the petitioners has been discontinued on revision of the pension of their spouses as per 7th Pay Commission.

It has been averred in the petition that the petitioners had been granted benefit of old age pension notified by the Government of Haryana,

RAJ KUMAR ARORA
2023.10.03 11:29
I attest to the accuracy and
integrity of this document

however, on account of revision of the pension of their spouses, the annual income from all sources of the petitioners and their spouses exceeded the limit of Rs.2 Lakhs and therefore, they have now been denied the benefit of the old age pension scheme.

The petitioners are spouses of the old age pensioners and were found eligible by the respondents for grant of pension. The State of Haryana had deceased the minimum age limit from 65 years to 60 years and subsequently vide Notification dated 22.03.2012, the upper income limit from all sources was increased from Rs.50,000/- to Rs.2,00,000/-. The 7th Pay Commission was implemented in the year 2016, whereupon the pension increased beyond Rs.2,00,000/- from all sources. The income limit was, however, not changed. A show cause notice was served upon the petitioners by the respondents to which replies were submitted claiming that the income limit be revised. An order was nonetheless passed rejecting the reply and directing discontinuation of pension and deposit of pension drawn.

The terms of the scheme are undisputed that the said Scheme prescribes the total annual income of the petitioners as well as their spouses not to exceed a sum of Rs.2,00,000/- from all sources.

Reply on behalf of respondents No.2 to 4 dated 01.05.2023 had been filed wherein it was averred as under:-

> *"3. That the State Government stipulates the eligibility criteria for availing the benefit of the Social Security Schemes in order to identify the needy people. As such, an income criterion had*

RAJ KUMAR ARORA
2023.10.03 11:29
I attest to the accuracy and
integrity of this document

also been fixed by the State Government for the benefit of Old Age Samman Allowances Schemes and the same had been amending time to time. The State Government had fixed the income limit as Rs.50,000/- per annum for getting the old age pension vide notification dated 10.06.2011 and the same had been amended vide notification dated 22.03.2012 (Annexure P/2) whereby the income limit of Rs. 50,000/- per annum was increased to Rs. 2.00 lac per annum.

It is worthwhile to mention here that the income criteria has now been amended and increased from Rs. 2.00 lac per annum to Rs. 3.00 lac per annum by the State Government vide notification dated 05.04.2023 (Annexure R/1).

4. That the petitioners were availing the benefit of Old Age Samman Allowances Scheme. In the meantime, the answering respondent No. 4 received a CM Window complaint dated 29.06.2020 made by one resident of petitioners' village Sh. Deepak S/o Sh. Suresh Kumar alleging that numerous people of his village are getting old age pension despite of being ineligible. On receipt of the said complaint, the answering respondent No.4 went to the petitioners' village to enquire into the allegations made therein and she revealed that the petitioners' husbands have retired from government departments and getting pension from the Government. As per income criteria mentioned in notification dated 22.03.2012 (Annexure P/2) of the said scheme, a person is eligible for getting old age pension if his/her annual income together with that of his/her spouse does not exceed the income limit of Rs. 2 lac per annum. Therefore, the petitioners were called upon by the answering respondent No. 4 to produce the documents in respect of their/their spouses' income but they did not join the inquiry. Thereafter, the answering respondent No.4 vide notices dated 20.08.2020 and 03.09.2020 also gave

RAJ KUMAR ARORA
2023.10.03 11:29
I attest to the accuracy and
integrity of this document

opportunities to the petitioners to produce the documents in support of their annual income but they did not respond thereto. Ultimately, the answering respondent No.4, in order to calculate the annual income of the petitioners in view of the provisions of notification dated 22.03.2012, collected the information in respect of income of the petitioners' husbands from concerned banks and found that their annual income is more than Rs. 2.00 lac per annum, the detailed information in respect of annual income of petitioners' husbands is as under:-

Sr. No.	*Name of the petitioner*	*Name of the petitioner's husband*	*Monthly pension/income*	*Annual Income*
1	*Smt. Krishna*	*Sh. Jwala*	*Rs. 31273/-*	*Rs. 3,75,276/-*
2	*Smt. Kitabo*	*Sh. Rajender*	*Rs.17,433/- + Rs.6000/- =Rs.23,433/-*	*Rs. 2,81,196/-*
3	*Smt. Sheela*	*Sh. Ram Phal*	*Rs.26338/-*	*Rs. 3,16,056/-*
4	*Smt. Risali*	*Sh. Ram Mehar*	*Rs.13,370/- + Rs.10,329/- = Rs.23,699/-*	*Rs. 2,84,388/-*
5	*Smt. Rajpati*	*Sh. Dhara*	*Rs.26,495/- + Rs.19,772/- = Rs. 46,267/-*	*Rs. 5,55,204/-*
6	*Smt. Roshni*	*Sh. Umed*	*Rs.31,529/-*	*Rs. 3,78,348/-*
7	*Smt. Birmati*	*Sh. Prithvi*	*Rs.37, 870/-*	*Rs. 4,54,524/-*
8	*Smt. Savitri*	*Sh. Kapura*	*Rs.12,020/- + Rs.6,000/- = Rs. 18,020/-*	*Rs. 2,16,240/-*

Accordingly, the answering respondent No.4, stopping the old age pension of the petitioners, issued the recovery notices against them as there are mandated Rule 9 of the Old Age Samman Allowances Scheme dated 26-09-06 (Annexure R/2) in

RAJ KUMAR ARORA
2023.10.03 11:29
I attest to the accuracy and
integrity of this document

respect of stoppage of old age pension, the relevant part of which is reproduced as under:-

> *"..... The old age pension is given to the beneficiary for his/her entire life. The DSWO has right to stop the pension, if at any stage it is found that the same was sanctioned on mistaken ground or false information or the condition for which the allowance was granted no longer exist..."*

Further, there are also provisions of get affecting the recovery of the amount as obtained by the ineligible beneficiary in wrongful manner.

Apart from this, the petitioners have also admitted themselves in the present writ petition that after revision of pension of their spouses on implementation of 7th Pay Commission their annual income is more than Rs. 2.00 lac.

Hence, action, in respect of discontinuing the pension of the petitioners as well as issuing the recovery notices against them, taken by the answering respondent No. 4 is legal and justifiable in view of the provisions of the said scheme because they are no longer entitled for old age pension.

5. That it is pertinent to mention here that there is no relation between revision of Government pension on the basis of implementation of 7 Pay Commission and income criteria stipulated in the said scheme as alleged by the petitioners in the present writ petition. Hence, it is not a compulsion for the answering respondents to revise the income criteria of the said scheme on the pattern of 7th Pay Commission.

RAJ KUMAR ARORA
2023.10.03 11:29
I attest to the accuracy and
integrity of this document

6. That it would be worthwhile to mention here that in so far as question of revising the income limit of Rs. 2 lac per annum is concerned, it is submitted that the State of Haryana vide notification dated 05.04.2023 has increased the income limit from Rs. 2.00 lac per annum to Rs. 3.00 lac per annum.

It is clarified here that the petitioners can apply for the fresh old age pension but subject to deposit the recovery amount and their applications for old age pension can be considered as per present eligibility criteria including income criterion also as the income criterion of Rs. 3.00 lac per annum is applicable prospectively rather than retrospectively

Thus, the State Government of Haryana is making all the possible as well as best efforts to financially assist the needy old age persons and always tries to keep away the defaulters and to avoid the loss of public exchequer."

The aforesaid table which has been extracted above shows the annual income of the petitioners and their spouses from all sources as more than Rs.2 lakhs.

There is no challenge to the eligibility conditions of the Scheme. In so far as the question of revision is concerned, it is also evident that the earlier eligibility requirement was annual of Rs.50,000/- from all sources which such annual income requirement has been increased to Rs.2 Lakh. Hence, the petitioners cannot claim that even though they may have been rendered ineligible on account of the revised conditions, however, the revision of the pension not being at their disposal the benefit of pension ought to be still conferred upon them. The pension scheme is a social

RAJ KUMAR ARORA
2023.10.03 11:29
I attest to the accuracy and
integrity of this document

welfare scheme extended by the respondent State on fulfilling of the eligibility conditions prescribed therein. It is not conferred as a matter of right. The marginalized sections/old persons are granted this allowance for their honour and the conditions stipulated thereunder are essential and integral for claiming the benefits admissible thereunder. There being no challenge to the terms and conditions of the pension and that the facts averred by the respondents in their written statement have not been disputed or denied, hence, the same remain uncontroverted.

Even though Old Age Pension Samman Scheme is a social Welfare Scheme, however, the condition prescribed in the scheme document need to be complied with. The scheme involve state fiscal expenses and it would be within the competence of the state to prescribe eligibility conditions. It is obligatory for the respondents to ensure that the recipients fulfill those conditions. The State is not the owner of public finance and purse and is only its custodian. It has the duty to ensure that welfare measures reach the needy and are not garnered by those who have been excluded. At the same time, a duty is also imposed on every citizen to claim the benefit ony if he/she fulfills the requirements & to move an appropriate application for discontinuance, if ineligible. There is no entitlement to a benefit availed in violation of the scheme. Ignorance of law cannot be accepted as a valid defence against law enforcement. Where the act of the beneficiary is not fraudulent or based on misrepresentation, he/she is not liable to be criminally prosecuted for such an act, however, it cannot mean that they are entitled to retain the undue benefits as well. An indulgence shown in such cases is often a bad example for the society

RAJ KUMAR ARORA
2023.10.03 11:29
I attest to the accuracy and
integrity of this document

which tends to learn that law can be violated and that no harm will come their way, even if detected, on the ground of hardship, lack of intent, age or such pleadings. The period for which such benefit is availed is thus protected, giving rise to a tendency to secure the benefits by manipulations in the scheme and to plead ignorance thereafter. The majesty of law and its ability to undo a wrong is thus a casualty.

As a result of such gracious indulgence shown by a Court of law as well, instances of abuse of public funds in social welfare schemes is on a forever rise. Ineligible person are doled out benefits from public funds so as to capitalize on such abuse in its own favour by people in seat of power and many times by the officials on quid-pro-quo basis. The trap draws away public funds from investment to revenue expenditure and significantly impacting fiscal health of a State. As a matter of fact, it revealed in an affidavit filed by the Principal Secretary to Government of Haryana in the Department of Social Justice and Empowerment in ***CWP No. 801 of 2017*** titled ***"Rakesh Bains and another versus CBI and others"*** that there were thousands of illegal and ineligible beneficiaries in one district itself. The figure in the entire state, if honestly verified, may run into lakhs. This Court, vide its order dated 29.08.2012 passed in CWP No.13209 of 2011 had accepted the undertaking of State to recover the wrongly disbursed pension. Action taken by State is being questioned in CWP-801 of 2017 supra. Any directions to not effect recovery also dilutes earlier orders passed by this Court and emboldens the Executing Officers to not comply with orders. Any mixed and contradictory directions are counter-productive and tend to persuade people to take chances to commit a wrong.

RAJ KUMAR ARORA
2023.10.03 11:29
I attest to the accuracy and
integrity of this document

Indulgence extended has to be valued in light of its impact and lesson learnt.

It would thus rather be a dis-service to the rule of law where an illegality is condoned and the violator is permitted to retain the ill-gotten fruits.

Once the factual aspect remains undisputed, there remains no illegality in the impugned orders.

In so far as the revision of the limits of annual income is concerned, the said revision is prospective w.e.f. 05.04.2023 and that the decision applies to the period during which the petitioners suffered ineligibility.

There is no representation on behalf of the petitioners.

Dismissed for non-prosecution.

Dismissal of the present writ petition, however, shall not operate as a bar to the petitioners for seeking recourse to the alternative remedies available to them in accordance with law.

(VINOD S. BHARDWAJ)
JUDGE

September 19, 2023.
raj arora

Whether speaking/reasoned *: Yes/No*

Whether reportable *: Yes/No*

RAJ KUMAR ARORA
2023.10.03 11:29
I attest to the accuracy and integrity of this document