

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12713-2018

Date of decision : 11.12.2023

Sukhraj

...Petitioner

Vs.

Pepsu Road Transport Corporation
and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Vikas Chatrath, Advocate
for the petitioner.

Mr. Anil Kumar Sharma, Advocate
for respondent No.1.

DEEPAK MANCHANDA, J.

This petition has been filed under Articles 226/227 Constitution of India for issuance of a writ in the nature of certiorari seeking quashing of the orders dated 20.02.2017 and 05.05.2017 (Annexures P-1 and P-2, respectively) whereby petitioner's pay has been reduced alongwith consequential reduction in pension and pensionary benefits along with recovery from petitioner to the tune of Rs.80,270/-.

Learned counsel for the petitioner submits that the issue raised in the present petition has already been dealt with by this Court in CWP-1468-2014 (Annexure P-7) titled as "**Bharpur Singh Vs. PRTC and others**". He prays that present petition be disposed of in the same terms.

The above fact is not disputed by the learned counsel representing the respondent No.1 and he does not oppose the prayer made by learned counsel for the petitioner.

I have heard counsel for the parties and have gone through the case file carefully.

This Court in the above mentioned writ petition decided the controversy in question by passing a detailed order. The case of the petitioner is squarely covered by the aforesaid judgments and the operative part of the order dated 05.11.2015 (Annexure P-7) passed in CWP-1468-2014 reads as under:-

“Impugned order (Annexure P-4) reveals that no reason for effecting refixation of petitioner's pay and consequential pensionary benefits has been assigned. In the written statement, it is mentioned that recovery of the excess amount paid has been ordered to be made as per order No. 432 dated 09.11.2012, though the impugned order does not mention the consequential recovery.

Be that as it may, in view of the decision of a Full Bench of this Court in the matter of Budh Ram Versus State of Haryana and others, 2009(3) SCT 333 (F.B.) that where there is no misrepresentation, deception or concealment by the employee for receiving monetary benefits, no such recovery can be effected from an employee. Hon'ble Supreme Court in State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc., 2015(1) SCT 195 has specifically held recovery in such a situation to be impermissible.

Consequently, this writ petition is allowed. Impugned order dated 09.11.2012, Annexure P-4, is set aside. It is directed that no recovery pursuant to the impugned order dated 09.11.2012 (Annexure P-4) be effected from the petitioner. It is, however, clarified that it is open to the respondents to take steps for refixation of petitioner's pay in accordance with the rules and Government instructions and principles

of natural justice, including an opportunity of personal hearing to the petitioner.”

In view of the above, admittedly the case of the petitioner is squarely covered by the aforesaid judgment dated 05.11.2015 (Annexure P-7) passed in Bharpur Singh’s case (supra), the present petition is disposed of in the same terms.

(DEEPAK MANCHANDA)
JUDGE

11.12.2023
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No