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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.508 of 2015(O&M)
Date of Decision: 15.02.2023**

**Hanspal SheokandPetitioner
Vs
State of Haryana and othersRespondents**

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. S.K. Garg Narwana, Sr. Advocate with
Mr. Vishal Garg Narwana, Advocate and
Mr. Jaspal Singh Johal, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of certiorari, quashing the order dated 03.07.2014 passed by the respondent No.2, thereby refixing the pay grade of the petitioner from Rs.9300-34800+5400/- to Rs.9300-34800+4200/- and order dated 11.12.2014 passed by the respondent No.2, whereby an amount of Rs.1,87,970/- has been ordered to be recovered from the leave encashment of the petitioner.

[2]. Learned Senior Counsel for the petitioner submits that the petitioner was appointed as Zildar in the Irrigation

Department on 23.04.1982. He was promoted to the post of Deputy Collector in the said Department on 09.04.2010 and remained posted in State Vigilance Bureau, Panchkula on deputation as Deputy Director. On promotion to the post of Deputy Collector, the pay band of the petitioner was fixed as Rs.9300-34800+5400/-. On 03.07.2014, the respondent No.2 informed the Director General, State Vigilance Bureau, Haryana that the pay band of the petitioner was wrongly fixed and it was conveyed that the pay band of the petitioner was to be rectified to Rs.9300-34800+4200/-. The request was made to refix the pay band accordingly.

[3]. On 18.07.2014, the respondent No.2 made a request to the Director General, State Vigilance Bureau, Haryana to supply No Demand Certificate in respect of the petitioner as the petitioner was going to retire from Government service on 31.08.2014 on attaining the age of superannuation. In pursuance of said requirement, the office of Director General, State Vigilance Bureau informed the respondent No.2 that an amount of Rs.1,87,970/- has been paid in excess to the petitioner during the period from 12.04.2010 to 30.06.2014 on account of wrong fixation of pay. The respondent No.2 has informed the Director General, State Vigilance Bureau on 11.12.2014 to recover the aforesaid amount from the payment

of leave encashment of the petitioner. Resultantly, recovery of an amount of Rs.1,87,970/- has been imposed on the petitioner, for which, there was no departmental enquiry conducted at any point of time before his retirement. Nothing was attributed to the petitioner in the context of fraud played by the petitioner in connivance with the official/officer of the Department. The recovery is being effected only after retirement of the petitioner, that too, without giving any show cause notice to the petitioner, explaining his position as regards fixation of pay band, if any, on wrong facts.

[4]. Notice of motion was issued on 13.01.2015.

[5]. Learned State counsel submits that the pay of the petitioner was wrongly fixed and the same was corrected vide order of rectification dated 10.06.2010.

[6]. Evidently, despite the aforesaid rectification, the petitioner was allowed to retire on 30.11.2014. Despite the order of correction, dues based on pay band of the petitioner as Rs.9300-34800+5400/- were released at the time of his retirement and order of rectification was never implemented before retirement of the petitioner. Now after the retirement of the petitioner, an amount of Rs.1,87,970/- is sought to be recovered in pursuance of order/letter dated 11.12.2014 issued by the respondent No.2. Nothing has been attributed to the

petitioner in the context of any fraud played by the petitioner in connivance with any official/officer of the Department. There is no plea taken by the respondents that at the time of granting benefits based on grade pay of Rs.9300-34800+5400/-, any undertaking was taken from the petitioner. In the absence of the aforesaid, the case of the petitioner is covered by the ratio laid down in **Syed Abdul Qadir and others Vs. State of Bihar and others, (2009) 3 Supreme Court Cases 475.**

[7]. For the reasons recorded hereinabove, this writ petition is allowed. Impugned orders are hereby set aside. Normal consequences to follow.

15.02.2023

Prince

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No