2023:PHHC:070034

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

202 **CWP No. 21110 of 2021**
Date of Decision: 15.05.2023

SUDESH

.....Petitioner

Vs

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr.Deepak Sonak, Advocate
for the petitioner.

Ms.Palika Monga, DAG, Haryana.

Mr.I.S.Sidhu, Advocate
for respondent No.5.

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RAJ MOHAN SINGH, J.(Oral)

1. The petitioner has preferred this writ petition under Article 226 of the Constitution of India for the issuance of a writ in the nature of Certiorari/ Mandamus for quashing the remarks in the Pension Payment Order dated 09.07.2021 for effecting the recovery from the petitioner in a sum of Rs.3,07,816/- allegedly paid to the petitioner in excess of monthly financial assistance in terms of the Haryana

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Compassionate Assistance to the Dependants of Deceased Government Employees (Amendment Rules), 2006.

2. The husband of the petitioner was working as Beldar in the respondent-department and he died in harness on 01.05.2008 leaving behind the petitioner as widow along with two children. The petitioner was granted financial assistance in terms of the Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006 for a period of 12 years under Rule 5 (1) (b) of the aforesaid rules. The amount was being deposited in the account of the petitioner by the respondents No.1 to 4. The role of the respondent No.5 was only to authorise the amount as per sanction accorded by the respondents No.1 to 4. There is no allegation of fraud having been committed by the petitioner in the deposit of excess amount by the respondents in her account.

3. Perusal of the written statement filed by the respondents No.1 to 4 in the light of preliminary submissions made in para No.3 is suggestive of the fact that there is no undertaking taken from the petitioner at the time of grant of the aforesaid financial assistance.

4. Learned counsel for the petitioner places reliance upon **Jagesh Devi vs. State of Haryana and others,** CWP No.16832 of 2018 decided on 04.07.2019 in case of similarly situated employee in whose account also excess payment was deposited and there was no fraud committed by the beneficiary.

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5. Learned counsel for the petitioner submits that the aforesaid order has not been assailed by the respondent State in any Letter Patent Appeal till date. Even otherwise, I find that the case of the petitioner is covered by the ratio of Hon'ble Apex Court in **State of Punjab and others vs. Rafia Masih and others (2015) 4 SCC 334.**

6. In view of above, this writ petition is allowed. There shall not be any recovery from the petitioner in pursuance of the remarks in Pension Payment Order dated 09.07.2021. The remarks in the Pension Payment Order is ordered to be deleted forthwith.

(RAJ MOHAN SINGH)
JUDGE

May 15, 2023
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No

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