

CWP-8855-2016

2023:PHHC:040628

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

CWP No. 8855 of 2016

Date of Decision: 20.03.2023

Raj Bala

.....Petitioner

Vs

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Naveen Daryal, Advocate
for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

The petitioner has filed the present writ petition for the issuance of a writ in the nature of Certiorari quashing the action of the respondent in affecting the recovery from the widow, after the death of her husband.

Perusal of the documents attached with the written statement would show that a show cause notice was issued to four employees including the husband of the petitioner(Balwan Singh, Assistant). The aforesaid show cause notice was in respect benefit of ACP, which was allegedly granted to the aforesaid employees on higher side. Vide the aforesaid show cause notice dated 13.02.2002, 14 days time was given to the

employees to file their response, failing which the *ex parte* proceedings were required to be done.

The husband of the petitioner died on 01.02.2007 and no action was taken by the respondents in pursuance of the show cause notice dated 13.02.2002 till passing of the order dated 28.02.2007/01.03.2007, refixing the salary of the husband of the petitioner and thereafter, effected recovery of Rs.1,29,871/- from the retiral dues of the husband of the petitioner.

Learned counsel for the petitioner further submits that after the demise of husband of the petitioner, the recovery is patently illegal as the pay of the husband of the petitioner was never revised during his lifetime and the same was revised after a period of more than five years from the show cause notice dated 13.02.2002. The order dated 28.02.2007/01.03.2007 was never served upon the petitioner. The aforesaid recovery has been effected towards HBA loan of Rs.53,900/- out of which an amount of Rs.15,450/- was waived off vide PCCF Haryana Letter No.1375-79 dated 18.09.2008, but the said loan has also been recovered from the gratuity payment of the deceased husband of the petitioner. Vide order dated 14.10.2012 an amount of Rs.28,200/- was given towards motorcycle advance. As per schedule of motorcycle loan an amount of Rs.300/- per

month was deducted w.e.f January 2000 to January 2007 and an amount of Rs.2700/- has been recovered in March, 2009. Similarly, an interest on the motorcycle advance to the tune of Rs. 10028/- has been deducted and an amount of Rs.37,743/- has been recovered from the gratuity of the deceased husband of the petitioner towards miscellaneous recovery (pay and allowances).

Evidently, after the show cause notice dated 13.02.2002, no order of recovery was made. After more than five years of the said show cause notice, an order was passed only on 08.02.2007/01.03.2007 and that too for the refixing of pay of the deceased husband of the petitioner and as a consequence of the said order, the respondents have successfully recovered an amount of Rs.1,29,871/- towards the aforesaid components out of which an amount of Rs.15,450/- was waived off as per PCCF Haryana Letter No. 1375-79 dated 18.09.2008, but the same has been recovered later on without there being any justification from the gratuity payment of the husband of the petitioner. The respondents have further proceeded to recover motorcycle advance even after payment of installments of Rs.300/- per month from January 2000 to January 2007. An amount of Rs.10028/- has been deducted towards interest on motorcycle advance and an amount of

Rs.37,743/- has been recovered towards miscellaneous recovery (pay and allowances).

In my considered opinion, the impugned action is punitive in nature particularly, after the demise of husband of the petitioner and also in view of the fact that the petitioner was never issued any show cause notice for effecting the aforesaid recoveries.

In view of the aforesaid facts on record, the impugned action is found to be totally unjustified and is consequently quashed. The respondents are directed to refund the amount of Rs.1,29,871/- to the petitioner along with interest @6% from the date of recovery till final realization of the amount. Let the needful be done within three months from the date of receipt of certified copy of this order, failing which the interest component shall be 9% per month till the date of recovery.

20th March, 2023
sapna

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No