

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

207

CWP No.24489 of 2021

Date of decision: 01.02.2023

TARAVANTI

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ashutosh Kaushik, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Vikas Chatrath, Advocate with
Mr. Abhishek Singh, Advocate and
Ms. Tanya Sehgal, Advocate and
Mr. Nitin Kaushal, Advocate
for respondent Nos. 3 & 4.

RAJ MOHAN SINGH , J.(ORAL)

The petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of certiorari for quashing the letter dated 16.09.2021 issued by the respondent-Bank vide which the respondent-Bank has decided to recover an amount of Rs.6,22,520/- from the pension account of the petitioner and has also started recovery of Rs.6,100/- per month w.e.f. 01.10.2021 totalling Rs.11,828/- in installments without passing any order of recovery to that effect.

Perusal of the show cause notice dated 16.09.2021 would indicate that 7 days time was given to the petitioner to respond to the aforesaid notice, failing which recovery of Rs.6,100/- per month will be initiated w.e.f. 01.10.2021.

Learned counsel for the petitioner submits that the order of recovery is in gross violation of ratio of ***State of Punjab vs. Rafiq Masih 2014 (8) SCC 883*** which prohibits the recovery from Class-III and IV employees on account of excess payment. Evidently, the petitioner did not respond to the aforesaid notice but ventured to issue a legal notice to the respondent-Bank which has been declined by the respondent-Bank in continuation of the impugned order/letter dated 16.09.2021.

Learned counsel for the petitioner further submits that the undertaking was executed by the petitioner on 10.11.2021. The said undertaking was not in respect of any amount paid earlier to 10.11.2021 and the same cannot be made operative with retrospective effect. The intended recovery is w.e.f. 12.05.2001 which in any case cannot be recovered from the petitioner being time barred. In the reply filed by the respondent Nos. 3 and 4, reference has been made to PPO No.92311-S/HR mentioning that family pension has set out in part 2 of the said order, plus the amount of dearness relief as admissible from time to time thereon, after due identification of the petitioner.

The pensionary payment of pensioner should commence from 01.01.2001. It has also been mentioned that in the event of death of Hukam Chand, family pension of Rs.2,995 per month may be paid to the petitioner i.e. widow of retiree from the date following the date of death of Hukam Chand till the expiry of 7 years or the completion of 65 years of age, had the retiree survived whichever is earlier at the rate of Rs.2085 per month subject to the condition as mentioned therein.

Perusal of the show cause notice dated 16.09.2021 is silent with regard to the enhanced pension over and above the family pension as fixed in the PPO order. Any related document attached with the show cause notice based on technical calculations cannot advance the case of the respondent-Bank without giving reasonable opportunity of hearing to the petitioner. As of now an amount of Rs.11,828/- has already been recovered from the petitioner. The ratio of ***High Court of Punjab and Haryana and others vs. Jagdev Singh 2016 (4) SCT 286*** is not attracted in view of the undertaking dated 10.11.2021 furnished by the petitioner. The said undertaking cannot relate back to the year 2001 (May 2001). Since, the show cause notice dated 16.09.2021 is conspicuously silent *vis-a-vis* the enhanced amount of family pension drawn by the petitioner, therefore at this stage without meaning anything on

the merits of the case, I deem it appropriate to set aside the show cause notice dated 16.09.2021, however, liberty is granted to the respondent-Bank to issue fresh notice to the petitioner, calling upon her to explain the payment of enhanced family pension if any received by her. The further action of the respondent Nos. 3 & 4 shall however be subject to reasonable opportunity to be given to the petitioner to prove her case. Since, the respondents have recovered an amount of Rs.11,828/- under the impugned action, therefore the respondent-Bank is directed to refund the said amount to the petitioner within a period of 2 months from the receipt of certified copy of this order.

Liberty is also given to the respondent-Bank to pass fresh order in accordance with law and the facts of this case that the recovery can be ordered from the petitioner in respect of any amount which might have been given to the petitioner under some mistaken belief.

For the reasons recorded hereinafter, this writ petition is disposed of.

01.02.2023

P.Bhatt

**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No