

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

(201)

CWP-24112-2022

Date of Decision : September 13, 2023

Bhupal Singh**.. Petitioner****Versus****State of Haryana and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Sandeep Thakan, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 14.10.2022 (Annexure P-4) by which, recovery of Rs.8,25,186/- has been imposed upon the petitioner.

2. Learned counsel for the petitioner argues that the petitioner has already retired from service and nothing is explicit from the impugned order as to on what account, the recovery of Rs.8,25,186/- is being imposed upon the petitioner. Learned counsel for the petitioner submits that even if there is a wrong fixation of pay, the pay cannot be refixed without giving any show cause notice much less the recovery of the amount keeping in view the settled principle of law.

3. Learned counsel for the petitioner submits that as it is a conceded position that before passing the impugned order of recovery, no

show cause notice was given to the petitioner so as to re-fix the pay and to order the recovery, hence, the recovery being ordered vide impugned order is liable to be set aside.

4. Learned counsel for the petitioner further submits that even if it is assumed for the sake of argument that the recovery is to be done from the petitioner then also as the petitioner has already retired from service, no recovery can be done from a retired employee keeping in view the judgment of the Hon'ble Supreme Court of India in ***State of Punjab and others Vs. Rafiq Masih (White Washer) etc., 2015(1) S.C.T., 195.***

5. Learned State counsel, keeping in view the averments made in the reply, submits that there is no averment that before passing the order of recovery or re-fixation of salary, any notice was given to the petitioner, hence, in case any recovery is to be done from the petitioner, proper procedure under the law will be adopted by giving due opportunity to the petitioner in case the Department is of the view that the pay of the petitioner was wrongly fixed and the same is liable to be re-fixed with consequent recovery then only after considering the reply of the petitioner, appropriate order will be passed in accordance with law as to whether any recovery is liable to be done from the petitioner or not. Learned State counsel further submits that till the said process is followed, no recovery as being mentioned in the impugned order will be done from the petitioner.

6. Learned counsel for the petitioner submits that as the learned State counsel has given undertaking before this Court that the respondents will give appropriate show cause notice in case they want to re-fix the salary and to recover any amount from the petitioner and the impugned order of recovery is not given effect to, till then the present petition may kindly be disposed of having been not pressed any further.

7. Ordered accordingly.

September 13, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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