

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

201

CWP No.34953 of 2019

Date of decision: 16.01.2023

KRISHNA DEVI

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ajay Redhu, Advocate for
Mr. Jagjeet Beniwal, Advocate
for the petitioner.

Ms. Palika Monga, DAG, Haryana.

Mr. Harneet Singh Oberoi, Advocate and
Mr. Nishad Ahuja, Advocate
for respondent No.3.

Mr. Vikas Chatrath, Advocate and
Ms. Tanya Seghal, Advocate
for respondent Nos. 4 and 5.

RAJ MOHAN SINGH , J.(ORAL)

The petitioner has preferred this writ petition for the issuance of an appropriate writ, order or direction especially in the nature of certiorari, quashing the impugned action of deduction from the family pension of the petitioner.

Evidently, family pension of the petitioner has been reduced in the month of September, 2019 without issuing any

show cause notice to the petitioner. The husband of the petitioner was appointed in the Department of Excise and Taxation, Haryana on 22.01.1973. After serving more than 32 years, husband of the petitioner died on 08.08.2005 when he was serving on the post of Tax Inspector.

Being widow of late Sh. Dinesh Sunder, the petitioner applied for grant of family pension as per family pension rules. The family pension was granted to the petitioner and family pension pay order was issued, thereafter the petitioner was getting family pension regularly. The son of the petitioner moved an application on 15.10.2018 under RTI Act seeking information in respect of status of family pension in view of 6th and 7th Pay Commission. During the aforesaid exchange of communication, the petitioner received a letter dated 10.07.2019 from the respondent No.4-Bank. Vide the aforesaid letter, petitioner was asked to submit undertaking with account number and mobile number to the respondent-Bank to enable the Bank to pay the amount payable under 7th Pay Commission. Thereafter, the petitioner submitted an undertaking and the petitioner started getting pension of Rs.19,162/- per month. Petitioner was hopeful that she will get more pension after implementation of the benefits of 7th Pay Commission, however, the petitioner was surprised to get Rs.14,127/- only towards

pension for the month of August, 2019, Rs.9,420/- for the month of September, 2019 and Rs.9,420/- for the month of October, 2019. The aforesaid deductions were without issuing any show cause notice to the petitioner.

The grievance of the petitioner is that no recovery can be done from the pension of the petitioner without effecting any show cause notice to the petitioner and in violation of principles of natural justice.

At this stage, by leaving the issue arising out of ratio of **State of Punjab and others vs. Rafiq Masih (White Washer) etc. 2015 (1) S.C.T., 195**, I deem it appropriate to consider that the impugned recovery proceedings are in violation of principles of natural justice as held by this Court in **CWP No.23877 of 2015 titled Prem Sagar and others vs. State of Punjab and others 2020 (1) SLR 248**.

On this premise, in view of para 9 to 13 of the judgment, I deem it appropriate to quash the Bank statement (Annexure P-5), however by giving liberty to the respondent Nos. 4 and 5 to take action in accordance with law. The issue as regards whether the impugned recovery can be made on the basis of Rafiq Masih case (supra) or not is left open.

Let the needful be done within two months from the date of receipt of certified copy of this order.

This writ petition is disposed of.

16.01.2023
P.Bhatt

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No