

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-1328-2020 (O&M)
Date of Decision:24.07.2024

Sukhdevi

.....Petitioner

versus

Dakshin Haryana Bijli Vitran Nigam Limited and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. S.S. Duhan, Advocate for the petitioner.

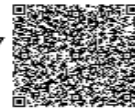
Mr. Santosh Kumar Maurya, Advocate for
Mr. G.S. Wasu, Advocate for respondents No.1 and 2.

Mr. Vikas Chatrath, Advocate for respondents No.4 to 6.

JASGURPREET SINGH PURI J.(Oral)

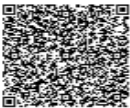
1. The present petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for setting aside the letter dated 02.09.2019 (Annexure P-1) vide which respondents No.3 has directed the respondent No.4 to recover the excess payment of pension made to the petitioner w.e.f. 01.02.2011 to August 2019.

2. Learned counsel for the petitioner submitted that petitioner is a widow of late Sh. Badan Singh, who was working as Junior Engineer in the office of respondent-Dakshin Haryana Bijli Vitran Nigam Limited (hereinafter to be referred to as 'Nigam') and he retired on 31.01.2004 and thereafter he died and family pension was fixed and the petitioner being widow of aforesaid



Badan Singh started receiving pension from 16.09.2005. As per the respondents-department, full family pension was to be given to the petitioner till the year 2011 and thereafter it was to be reduced to 50% in accordance with the instructions but due to a mistake on the part of the respondent-Bank, the same was not reduced and in this way the petitioner continued to receive the full pension till the year 2019 and when it was inspected by the Bank then a demand notice was issued to the petitioner on 15.10.2019 vide Annexure P-2 and recovery of Rs.7,44,887/- is sought to be effected from the petitioner.

3. All the learned counsels for the parties have advanced their arguments and they are *ad idem* that so far as the recovery aspect is concerned since it was a clerical mistake on the part of the respondent-Bank and a reference in this regard is made to a Division Bench judgment of this Court in ***Balbir Singh vs. State of Haryana and others*** passed in LPA No.874-2014 decided on 04.09.2014 and also another judgment of this Court in ***Parkash Singh Vs. State Bank of India*** passed in CWP-18089-2019 decided on 29.01.2024 that in such like cases of detection of clerical mistake, recovery can still be effected from the employee or from a family pensioner otherwise it would amount to undue enrichment. Learned counsel for the petitioner has categorically submitted that so far as the recovery aspect is concerned, he does not dispute the same but his only concern is that the petitioner is a widow of the age of 75 years and respondents are now recovering the amount by way of monthly installment of Rs.6401/- and in this way she cannot make her both ends meet and some reasonable installment may be fixed in this regard.



4. Mr. Vikas Chatrath, learned counsel for respondents No.3 to 6 submitted that keeping in view the peculiar fact of the present case that the petitioner is a widow of the age of 75 years, he has no objection if the monthly installment is reduced.

5. In view of the aforesaid factual position so stated by learned counsel for the parties, the present petition is partly allowed. So far as the recovery aspect is concerned the respondents will be within their rights to recover the amount from the petitioner being a result of a clerical mistake of the Bank. Since the monthly installment of Rs.6401/- per month made from the petitioner, is on the higher side and as such, considering the age of the petitioner and the fact that the petitioner is a widow, it is therefore directed that from henceforth the recovery of Rs.3500/- per month shall be made from the petitioner.

(JASGURPREET SINGH PURI)
JUDGE

24.07.2024
shweta

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