



CWP-12218-2000 (O&M)
CWP-13138-2000 (O&M)
CWP-15895-2000 (O&M)

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

206-3 cases

CWP-12218-2000 (O&M)
Date of decision:15.10.2024

Hargyan Grewal and others
....Petitioners

Versus

State of Haryana and others
...Respondents

CWP-13138-2000 (O&M)

Pradeep Chandel and others
....Petitioners

Versus

State of Haryana and others
...Respondents

CWP-15895-2000 (O&M)

Niranjan Dass Goel and others
....Petitioners

Versus

State of Haryana and others
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. R.K. Malik, Sr. Advocate with
Mr. Kartikey Chaudhary, Advocate
for the petitioners in CWP-12218-2000.

Mr. D.S. Rawat, Advocate
for the petitioner in CWP-13138-2000.

None for the petitioner in CWP-15895-2000.

Ms. Vibha Tewari, AAG, Haryana.

AMAN CHAUDHARY, J. (Oral)

1. These cases involve similar issues and therefore, are being
disposed of together by this common judgment.



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2. The non-practising allowance payable to the petitioners, who were working as Veterinary Surgeons in the Animal Husbandry Department, was to be treated as part of pay for all purposes including for grant of dearness allowances. However, in January 1988, the pay-scales were revised w.e.f. 01.01.1996 but no decision was taken regarding the said allowances. Thereafter, as per letter dated 05.07.2000, the NPA was to be received at the rate of 142% instead of 240%, consequently reducing the pay.

3. This Court had stayed the recovery vide order dated 26.09.2000 and learned counsel while relying on the judgment of Hon'ble the Supreme Court in **M.P. Medical Officers Association vs. The State of Madhya Pradesh and others**¹, submits that in the present cases as well the amount of NPA granted was determined by the Department, the petitioners having not misrepresented to obtain the same, relevant para thereof reads thus:

“5. It is not in dispute that the members of the appellant association, who were serving as Specialists, Dental Specialists and officers in the specialist's cadre got the benefits under the circular dated 23.05.2009. It was the Department/State, who issued the circular dated 23.05.2009 and paid the benefits under the circular dated 23.05.2009 to the members of the appellant association, which subsequently came to be withdrawn by the State in the year 2012. Therefore, as such, there was neither any misrepresentation on the part of the concerned employees – members of the appellant association nor can the mistake be attributed to them. The mistake, if any, can be said to be that of the Department/State, who issued the circular dated 23.05.2009 under which the members of the association were given certain benefits till the same was withdrawn in the year 2012. Therefore, in the peculiar facts and circumstances of the case, the State was not justified in ordering recovery of the excess amount paid along with the



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interest...”

4. In **Krishan Kumar Singla vs. State of Punjab and Others**,
CWP-11341-2003, decided on 20.09.2010, SLP against which was dismissed
on 05.12.2014, it was held thus:

“5. The following needs to be extracted from Budh Ram's case (supra), for consideration of the issue raised in this petition :

"It is in the light of the above pronouncement no longer open to the authorities granting the benefits, no matter erroneously, to contend that even when the employee concerned was not at fault and was not in any way responsible for the mistake committed by the authorities they are entitled to recover the benefit that has been received by the employee on the basis of any such erroneous grant. We say so primarily because if the employee is not responsible for the erroneous grant of benefit to him/her, it would induce in him the belief that the same was indeed due and payable. Acting on that belief the employee would, as any other person placed in his position arrange his affairs accordingly which he may not have done if he had known that the benefit being granted to him is likely to be withdrawn at any subsequent point of time on what may be then said to be the correct interpretation and application of rules. Having induced that belief in the employee and made him change his position and arrange his affairs in a manner that he would not otherwise have done, it would be unfair, inequitable and harsh for the Government to direct recovery of the excess amount simply because on a true and correct interpretation of the rules, such a benefit was not due. It does not require much imagination to say that additional monetary benefits going to an employee may not always result in accumulation of his resources and savings. Such a benefit may often be utilized on smaller luxuries of life which the employee and his family may not have been able to afford had the benefit not been extended to him. The



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employees can well argue that if it was known to them that the additional benefit is only temporary and would be recovered back from them, they would not have committed themselves to any additional expenditure in their daily affairs and would have cut their coat according to their cloth. We have, therefore, no hesitation in holding that in case the employees who are recipient of the benefits extended to them on an erroneous interpretation or application of any rule, regulation, circular and instructions have not in any way contributed to such erroneous interpretation nor have they committed any fraud, misrepresentation, deception to obtain the grant of such benefit, the benefit so extended may be stopped for the future, but the amount already paid to the employees cannot be recovered from them."

6. In view of the above, this petition is allowed in terms of **Budh Ram & Others vs. State of Haryana & Others** (Civil Writ Petition No.2799 of 2008, decided on 22.5.2009) reported as 2009(3) PLR 511. Accordingly, it is directed that respondents would have no right to effect recovery from the petitioner. In the meantime, in the interregnum period if any recovery has been effected, the amount shall be refunded to the petitioner within four months of receipt of a certified copy of this order. The action of the respondents in regard refixation of pay, however, is maintained."

5. A gainful reference can be made to the judgment in **Thomas Daniel vs. State of Kerala**², wherein by placing reliance on **Sahib Ram vs. State of Haryana**³ and **State of Punjab vs. Rafiq Masih**⁴, Hon'ble the Supreme Court held that generally, the recovery of amounts paid in excess are impermissible to be affected.

² 2022 SCC OnLine SC 536

³ 1995 Supp (1) SCC 18

⁴ (2015) 4 SCC 334



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6. Learned State counsel is unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.
7. In view of the aforesaid, the present petitions are disposed of in terms of the judgment passed in **M.P. Medical Officers Association** (supra).
8. A photocopy of this order be placed on the files of connected cases.

(AMAN CHAUDHARY)
JUDGE

15.10.2024
Hemant

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