

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

Date of Decision : 01-08-2024

.....Petitioner

VERSUS

.....Respondent(s)

Present: Mr. R.K. Arora, Advocate for the petitioner.

Mr. T.P.S. Chawla, Sr. DAG Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, on the basis of the higher qualification, the petitioner was granted the benefit of higher pay scale w.e.f. 21.07.1997.

The said benefit was withdrawn vide order dated 29.12.1999 (Annexure P-5) on the ground that qualification were required prior to the appointment on regular basis. The said order was challenged and Division Bench of this Court while issuing notice of motion on 01.02.2000 stayed the recovery, which is in operation as of now.

Learned counsel for the petitioner submits that the petitioner has already retired and as per the reply filed, despite the fact that only recovery was stayed, the petitioner continued to get the scale till the retirement and therefore, any amount already withdrawn upto the date of retirement, be directed not to be recovered.

Learned State counsel submits that once the recovery was stayed, the respondents were within the jurisdiction to grant the petitioner the scale for which he was entitled keeping in view the impugned order dated 29.12.1999 (Annexure P-5) and he does not have any information whether, the petitioner continued to get the withdrawn scale upto the date of retirement or not as only the recovery of withdrawal of the benefit was stayed by this Court.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

It is a conceded fact that the petitioner has already retired from service. As per the interim order passed by the Division Bench dated 01.02.2000, even upon the withdrawal of the pay scale, the recovery of the excess amount paid to the petitioner was stayed. In case, even after the withdrawal of the higher pay scale vide impugned order dated 29.12.1999 Annexure P-5, the petitioner was paid salary without implementing the order dated 29.12.1999 till his retirement and as the petitioner has retired since long, keeping in view the interim order passed, the excess amount paid to the petitioner be not covered especially 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***".

Even otherwise, as per the judgment of the Division Bench of this Court in CWP No.14634 of 2009 titled as "***Beant Singh and ors. Vs. State of Punjab***" decided on 30.08.2010, even upon the withdrawal of the pay scale, no recovery was ordered, and even as per the judgment of the Hon'ble Supreme Court in ***SLP(C) 15433 of 2013*** decided on 12.03.2024, whereby no recovery is to be made upon withdrawal of the higher pay scale

for which the employee was found not entitled for hence, the present petition is disposed of that no recovery of excess amount paid to be petitioner will be recovered.

Pending application, if any, shall stand disposed of.

01-08-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO