IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-14958-1999 (O&M)
Date of decision: 17.09.2024

Krishan Chand and others ...Petitioners

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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Present: Mr. Raman B. Garg, Advocate and
Mr. Mayank Garg, Advocate
for the petitioners.

Ms. Vibha Tewari, AAG, Haryana.

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AMAN CHAUDHARY, J. (Oral)

1. The present petition has been filed for quashing the impugned recovery orders (Annexures P2 to P8) and directing the respondents to grant the petitioners Dearness Allowance on basic pay for the period they actually worked from 01.08.1997 onwards and salary after fixing their pay in the revised pay scale of Rs.4000-6000/-.

2. The Division Bench of this Court vide order dated 27.10.1999 stayed the recovery and in the meantime, the petitioners, who had joined the service in the year 1992 & 1995, would have even retired, as such the present petition is covered by the judgment 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. The relevant paras of Krishan Kumar Singla (supra) read 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affairs accordingly which he may not have done if he had known that the benefit being granted to him is likely to be withdrawn at any subsequent point of time on what may be then said to be the correct interpretation and application of rules.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 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."
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> 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."

3. A gainful reference can be made to the judgment **Thomas Daniel vs. State of Kerala**[1], wherein by relying on **Sahib Ram vs. State of Haryana**[2] and **State of Punjab vs. Rafiq Masih**[3], Hon'ble the Supreme Court held that generally, the recovery of amounts paid in excess are impermissible to be affected.

4. 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.

5. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Krishan Kumar Singla** (supra).

(AMAN CHAUDHARY)
JUDGE

17.09.2024
ashok

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

[1] 2022 SCC OnLine SC 536
[2] 1995 Supp (1) SCC 18
[3] (2015) 4 SCC 334