

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

Date of Decision : 23-07-2024

1. **CWP-16262-1999 (O&M)**

KEWAL KRISHAN & ORSPetitioner(s)
VERSUS
STATE OF PUNJAB & ORSRespondent(s)

and

2. **CWP-6284-2000 (O&M)**

MANJIT SINGH & ORSPetitioner(s)
VERSUS
STATE OF PUNJAB & ORSRespondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Chatrath, Advocate with
Mr. Sachit Katoch, Advocate for the petitioners.

Mr. Arun Gupta, DAG, Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

Present set of two writ petitions involve common question of law in the background of common set of facts and thus they are being decided by a common order.

In the present petition, the grievance raised is against order dated 28.04.2000 (Annexure P-7) whereby respondents by withdrawing one increment granted and recovery was sought to be done from the petitioners, which recovery was stayed by the Division Bench of this Court vide order dated 19.05.2000.

Learned counsel for the petitioners submit that the petitioners in both the cases have already retired from service and the respondents be directed not to recover the said amount any further.

Learned State counsel submits that the recovery was not done keeping in view the order passed by the Division Bench.

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

Once, the recovery was stayed by the Division Bench 24 years ago, and the petitioners have already retired from service keeping in view of the Judgment of the Hon'ble Supreme Court in "***State of Punjab and others Vs. Rafiq Masih (White Washer) etc., 2015(1) S.C.T., 195***", recovery of the amount after retirement amounts to undue hardship. As per the judgment of the Hon'ble Supreme Court of India, no recovery should be done from the retired employee hence, the respondents are restrained from recovering in pursuance to the impugned order of recovery.

Ordered accordingly.

At this stage, learned counsel for the petitioners submits that liberty be granted to the petitioners to approach the respondents by filing a detailed representation that the designation to the post of Technician Grade-II/III, be treated as a promotion, which was being treated by respondents by granting them one increment.

Keeping in view the facts and circumstances of the present case, learned counsel for the State submits that in case representation is filed by the petitioner, appropriate order will be passed within a period of eight weeks from the date of receipt of certified copy of this order by passing an

appropriate speaking order. Learned counsel further submits that in case, it is found feasible to accept the claim of the petitioner, the same will be accepted, otherwise due reasons will be mentioned for not accepting the claim of the petitioners in the speaking order to be passed which will be conveyed to the petitioners.

Learned counsel for the petitioners submits that keeping in view the statement of the learned State counsel, present petition may kindly be disposed of as having been not pressed any further with liberty to the petitioners to file appropriate representation.

Pending applications, if any, also stand disposed off.

Photocopy of this order be placed on the file of other connected case.

23-07-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

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