

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

205

CWP-72-1999 (O&M)

Date of Decision : 13.08.2024

Meena Devi Jain

.. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Alka Chatrath, Advocate,
for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present petition, the grievance being raised by the petitioner is that the benefit of step of pay which was given to the petitioner equivalent to one Agya Ram, has been withdrawn.

2. Learned counsel for the petitioner submits that not only Agya Ram but there are other female employees also, who were junior to the petitioner and were getting higher pay than the petitioner and therefore, the petitioner was entitled to retain the benefit, which was given to her qua the step of pay.

3. Learned counsel for the respondent-State submits that in case, the petitioner has any data that any of the junior female employee was getting a higher pay and the same is brought to the notice of the authority concerned, the claim of the petitioner will be considered in accordance with

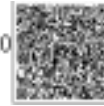


law and appropriate speaking order will be passed and in case it is found that on the day of the passing of the impugned order, female employee junior to the petitioner were getting a higher salary, appropriate order for the withdrawal of the impugned order will also be passed. Otherwise, due reasons will be mentioned for not accepting the claim of the petitioner while passing the said order.

4. Ordered accordingly.

5. Qua the claim of the petitioner for setting aside the recovery of the excess amount, it may be noticed that nothing has come on record that there is misrepresentation in any manner to claim the benefit for stepping up of her pay equivalent to that of Agya Ram. Respondent-State, considered the claim and passed the order and granted the relief. In the absence of any misrepresentation, the excess amount paid, cannot be recovered. Hon'ble Supreme Court of India in ***Thomas Daniel vs. State of Kerala and others, 2022 LiveLaw (SC) 438*** held that where there is no misrepresentation on the part of an employee to claim a benefit, though the benefit was wrongly extended, the excess amount paid cannot be recovered. The relevant paragraph reads as under :-

“(9) This Court in a catena of decisions has consistently held that if the excess amount was not paid on account of any misrepresentation or fraud of the employee or if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order which is subsequently found to be erroneous, such excess payment of emoluments or allowances are not recoverable. This relief against the



recovery is granted not because of any right of the employees but in equity, exercising judicial discretion to provide relief to the employees from the hardship that will be caused if the recovery is ordered. This Court has further held that if in a given case, it is proved that an employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, the courts may on the facts and circumstances of any particular case order for recovery of amount paid in excess.”

5. Keeping in view the above, the recovery of the excess amount being done from the petitioner is not in accordance with law as well as the settled principle of law noticed hereinabove hence, the recovery of the excess amount from the petitioner is accordingly set aside.

6. The petition stands disposed of in the above terms.

7. All pending applications, if any, stand disposed of accordingly.

13.08.2024

Satyawan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No