

CWP-7482-2020 (O&M) and
CWP-21942-2020(O&M)

2024:PHHC:114024



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(243) CWP-7482-2020 (O&M)
Date of Decision : 02.09.2024

Kahan Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

(246) CWP-21942-2020(O&M)

Bhupinder Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rakesh Sobti, Advocate for the petitioner
in CWP-7482-2020.

Mr. Gurbachan Singh Bhatia, Advocate for the petitioner
in CWP-21942-2020.

Mr. Swapan Shorey, Deputy Advocate General, Punjab.

Mr. Vikas Chatrath, Advocate with
Mr. Abhishek Singla, Advocate,
Ms. Tanya Sehgal, Advocate and
Mr. B.P.S. Thakur, Advocate for the respondent-Bank.

Harsimran Singh Sethi J. (Oral)

1. By this common order, two writ petitions, the details of which
have been given in the heading, are being decided as both these petitions
involve the same question of law on similar facts.



2. For the sake of convenience, the facts are being taken from CWP No. 7482 of 2020.

3. Learned counsel for the petitioner argues that without giving any opportunity of hearing to the petitioner and without affording the calculation to show that the petitioner has drawn excess amount than his entitlement, the recovery is being done from the petitioner which is arbitrary and illegal. Learned counsel for the petitioner submits that the petitioner has already retired from service and 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***, no recovery can be done from the petitioner after his retirement, especially when the amount in question was being paid for more than five years.

4. Upon notice of motion, the respondents have filed the reply, wherein the respondents have stated that the order which has been impugned is only a show cause notice/demand notice where liberty is given to the petitioner to raise all the objections in their defence and further they have been allowed the personal hearing but rather than choosing to file the reply to the show cause notice, the present petition has been filed without any reason, especially when no order of recovery has been passed so far in pursuance to the show cause notice/demand notice issued to the petitioner.

5. Learned counsel for the petitioner submits that on one hand, the impugned order is being termed as a show cause notice/demand notice but on the said show cause notice/demand notice itself, the recovery had already been started, which forced the petitioner to file the present petition.



6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. Once, the respondents before this Court have stated that the impugned show cause notices/demand notices have not reached finality and whatever objections, the petitioners have to the proposal raised in the impugned show cause notices/demand notices, the petitioners have been given liberty to raise all the objections, including the grant of personal hearing no interference is called for by this Court at this stage. Let the petitioners file appropriate reply to the show cause notices/demand notices issued for the recovery of the amount and petitioners be given an opportunity of personal hearing and the respondents are directed to deal with each and every objection raised by the petitioners in their reply while deciding whether any recovery is to be done from the petitioners or not in pursuance to the show cause notices/demand notices.

8. Till, any order is passed henceforth, no recovery will be done from the petitioners till the passing of the fresh order and the bank will only take action in pursuance to the fresh order, which will be passed in pursuance to the present order in case recovery of excess amount is liable to be recovered.

9. It is made clear that in case the petitioners are aggrieved against any order passed by the Bank for recovery, they can avail appropriate remedy available to them.

10. The petitioners are given liberty to raise additional objections to the impugned show cause notice within a period of two weeks from today,



which objections, if raised, be also considered while deciding whether, any recovery is to be done from the petitioners in the facts and circumstances of the present case keeping in view the settled principle of law on the issue.

- 11. Petitions are disposed of in above terms.
- 12. Pending miscellaneous application, if any, also stands disposed of.
- 13. A photocopy of this order be placed on the file of connected cases.

September 02, 2024 (HARSIMRAN SINGH SETHI)
kanchan JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No