

2024:PHHC:099223



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

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CWP-9140-2021

Date of Decision: 29.07.2024

DARSHANA DEVI

... Petitioner

VERSUS

STATE OF HARYANA AND ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Vinod Bhardwaj and Mr. Nipun Bhardwaj,
Advocates for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the impugned notice dated 30.03.2021 (Annexure P-4) issued by respondent No.4- Tehsildar-cum-A.C. 2nd Grade, Kaithal, District Kaithal, whereby recovery of an amount of Rs.1,54,090/- has been ordered to be effected from the petitioner, which she had received as old age pension.

Learned counsel for the petitioner submits that the husband of the petitioner had passed away on 06.09.2012 and at that point of time, she was getting old age pension of Rs.2,000/- as per the Government Scheme. However, after the death of her husband, she started getting family pension also. He further submits that the petitioner is an illiterate lady and as such, she was not aware as to whether she is entitled for the family pension as well as old age pension simultaneously or not. He further submits that owing to some party



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faction in the village, one resident of the village namely Pawan Kumar made a complaint to the Authorities that the petitioner is getting double pension; whereupon the petitioner was called in the office of respondent No.3 in the month of October, 2019; where the petitioner explained her position and the circumstances under which she was getting the dual pension benefits. Accordingly, her old age pension was stopped immediately and recovery of an amount of Rs.1,54,090/- as a land revenue was ordered. He further submits that the petitioner is an old aged simpleton lady and was not aware about the rules and laws of getting pension. He further submits that the petitioner being old in age and having no source of income expect for the family pension, the order of recovery of the abovesaid amount is very harsh and onerous.

Reply to the petition had been filed by way of an affidavit of Kuldeep Sharma, District Social Welfare Officer, Kaithal, wherein it is mentioned that the petitioner was getting pension under the Old Age Samman Allowance Scheme since September 2009. Learned State Counsel has relied upon the notification dated 10.06.2011 (Annexure R-3) issued in respect of the said Scheme and as per mandate of the said notification, a person cannot get old age pension, if he/she is getting any other pension. The relevant extract of the said notification is reproduced as under:

“...Exclusion:

Notwithstanding the above, in case the person is receiving pension from any Government or Local/Statutory Body or any organization substantially financed by any Government or Local/Statutory Body will not be eligible to receive allowance under the Scheme.”



He further submits that in view of the statutory provisions, as extracted above, the old age pension of the petitioner has been rightly stopped and recovery has also been ordered to be effected in accordance with law.

I have heard the learned counsel for the respective parties and have also gone through the documents appended alongwith the present petition with their able assistance.

Even though the reply was filed by the respondents on 21.03.2023, however, no replication or rejoinder controverting the averments made in the reply has been filed by the petitioner. The stand of the respondents has thus remained uncontroverted. It is thus established from a perusal of the aforesaid reply that the petitioner is ineligible for being granted the benefit of pension under the Old Age Samman Allowance Scheme as she had started getting another pension under the scheme of Family Pension after the death of her husband, which disentitled her to the pensionary benefits under the Old Age Samman Allowance Scheme. The ineligibility of the petitioner as also the grant of family pension are not being a subject matter of dispute, I am of the opinion that the order passed by the respondents for seeking recovery of the pension cannot be alleged to be illegal, non-speaking or unsustainable.

At this stage, learned counsel for the petitioner contends that there is no willful concealment on the part of the petitioner. The petitioner is an old aged and illiterate lady. Hence, there was no willful misrepresentation or concealment on the part of the petitioner. He contends that the petitioner has already deposited half of the recoverable amount i.e. Rs.77,045/- vide Book No.A 0044767 dated 04.09.2023. He further made a prayer that the petitioner

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may be permitted to deposit the remaining principal amount in installments and that the interest thereupon may kindly be waived off.

Even though the aforesaid prayer has been objected to by the learned State Counsel, however, I am of the opinion that the petitioner still remains a marginal section in the society, even though she may not have availed of the benefits in accordance with law. It is also undisputed that the petitioner is an illiterate old aged lady and that the essential rules and laws in respect of getting the pension may not be known to her. Hence, it cannot be said to be a case of an outright fraud played on the State Exchequer by a citizen vis. petitioner. Accordingly, the request made by the counsel for the petitioner is accepted on equitable grounds. Resultantly, in the event of the petitioner depositing the balance principal amount of Rs.77045/- in ten equal installments commencing after a period of one month of the receipt of certified copy of this order, the accrued interest on the said amount shall be waived off. At the same time, it is also clarified that if the petitioner fails to deposit the principal amount in ten equal installments within the prescribed period as aforesaid, the respondents shall be entitled to recover the entire balance amount alongwith interest so calculated.

Petition stands disposed of accordingly.

JULY 29, 2024*rajender***(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No