



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

201

CWP-8727-2022

Date of decision : 22.08.2024

Lajya Devi and others

.....Petitioners

Versus

Punjab State Power Corporation Limited and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Jugam Arora, Advocate for the petitioner.

Mr. Aditya Pratap Duggal, Advocate for the respondents.

NAMIT KUMAR, J. (Oral)

1. The petitioner has filed the instant writ petition under Articles 226 and 227 of the Constitution of India, seeking a writ of certiorari, quashing the action of the respondents in reducing the family pension of the petitioners with retrospective effect and effecting recoveries from their pension on account of alleged excess payment of family pension, without any prior notice and opportunity of hearing. Further seeking a writ of mandamus, directing the respondents to restore the family pension of the petitioners which they were drawing prior to the reduction and restraining the respondents from effecting further recovery and to refund the amount already recovered from the petitioners.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioners are widows and getting family pension from the Punjab State Power Corporation Limited after death of their



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husbands, who were permanent employees of the erstwhile Punjab State Electricity Board. Their particulars are as under :-

Sr. No.	Name of petitioners	Name of Husband	Designation	Date of death	PPO No.
1.	Lajya Devi	Kartar Singh	ALM	13.10.1996	212/97
2.	Abhilasha Rani	Sham Sundar	Assistant Store Keeper	30.04.2004	1140/05
3.	Kaushal Devi	Shripal	Sweeper	24.07.2001	1488/05
4.	Shakuntla Devi	Harnam Singh	ALM	23.04.2003	1693/03

The petitioners were continuously drawing their family pension as was being paid to them by the respondents. However, their family pension was reduced by the respondents from the year 2019-20 onwards and recovery was effected from their family pension by way of installments without informing the petitioners or without taking their consent. Hence, this petition.

3. While issuing notice of motion, on 27.04.2022, the recovery from the petitioners was stayed till further orders.

4. The respondents-Corporation have taken a stand that on account of certain irregularities found during audit process of the pension cases under the concerned office of PSPCL, conducted from 14.06.2018 to 22.06.2018, the recoveries against the petitioners have been effected. The petitioner(s) have given undertakings to the department at the time of filing of pension papers that they would be bound to indemnify the department if any excess amount is paid to them erroneously.

5. In terms of order dated 02.08.2024, passed by this Court,



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additional affidavits of the concerned officers, giving details of the amount recovered from the petitioners, have been filed. As per the said affidavits, the following amounts have already been recovered or is likely to be recovered from the petitioners:-

Sr. No.	Name of petitioners	Recoverable amount (Rs.)	Amount already recovered (Rs.)
1.	Lajya Devi	5,30,377/-	1,94,280/-
2.	Abhilasha Rani	10,28,642/-	2,18,586/-
3.	Kaushal Devi	1,37,066/-	Whole amount
4.	Shakuntla Devi	6,44,685/-	3,48,000/-

6. Learned counsel for the petitioners submits that the respondents, without passing any specific order are recovering the amount from the family pension of the petitioners, by way of installments, being excess payment made to them. He further submits that the respondents started the deduction from the family pension of the petitioners, without issuing any show cause notice or granting any opportunity of personal hearing in unilateral manner, which is not only in violation of the principles of natural justice but also against the law laid down by the Hon’ble Supreme Court passed in ***Jagdish Prasad Singh Vs. State of Bihar and others : 2024 INSC 591*** and ***State of Punjab Vs. Rafiq Masih (White Washer) and others : 2015(1) S.C.T. 195.***

7. Per contra, learned counsel for the respondents submits that there is no illegality or infirmity in the impugned recovery, as the petitioners had wrongly been given excess family pension and



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accordingly recovery has been made by way of installments from their family pension.

8. I have heard learned counsel for the parties and perused the relevant documents with their able assistance.

9. Admittedly, the petitioners are widows and are getting family pension from the respondent-Corporation after the death of their husbands, who were permanent employees of the erstwhile Punjab State Electricity Board. From the year 2019-20 onwards, the respondent-Corporation reduced the family pension of the petitioners and effecting recovery from their family pension. The stand of the respondent-Corporation is that inadvertently the petitioners were given excess payments qua their family pension and when they came to know about the said mistake, they revised/re-calculated the family pension of the petitioners and thereafter, recovering the same from their family pension.

10. Even if an excess amount on the basis of wrong fixation of family pension was paid to the petitioners, the same cannot be recovered from them. The Hon'ble Supreme Court of India in ***Jagdish Prasad Singh's case (supra)***, while following the judgment in ***Rafiq Masih (White Washer) and others case (Supra)***, whereby certain guidelines were issued as to under what circumstances the recoveries can be effected, has held that once the relationship between employer and employee have come to an end, no departmental action could have been initiated by the State against the employee after passing of eight years following his superannuation which was manifestly not preceded by any show cause notice and was thus, passed in gross violation of the



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principles of nature justice and further observed that any step of reduction in the pay scale and recovery from a government employee would tantamount to a punitive action because the same has drastic civil as well as evil consequences. After detailed consideration of law in ***Rafiq Masih (White Washer) and others case (Supra)*** the Hon'ble Supreme Court of India has held that no recoveries can be ordered from the employees belonging to Class III and IV and further, no recoveries can be ordered from the employees, who have retired or who are about to retire within a period of one year. The relevant portion of the aforesaid judgment is reproduced as under:-

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he



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should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”

11. The facts and circumstances of the present case suggests that it is not the case of the respondents that it was due to some fraud or misrepresentation of the petitioners that they were granted excess payment but it was granted by the respondents on their own.

12. The case of the petitioners will be covered under clause (i), (ii) and (v) of the judgment passed in ***Rafiq Masih (White Washer) and others case (Supra)***. In the present case, if this Court allow the recovery from the petitioners, the same would be harsh and arbitrary as petitioners were not in any way responsible for the receipt of the said excess amount and the petitioners being old aged widows of Government servants who were working on a Class III posts, if made to refund the amount as being asked by the respondents, will suffer prejudice and the same will be oppressive as well.

13. Moreover, the alleged deduction from the family pension of the petitioners has been started by the respondents in violation of the principles of natural justice as neither any show cause notices were issued to the petitioners nor they were granted an opportunity of personal hearing.

14. In view of the above, the alleged recovery effected from the family pension of the petitioners are set aside and the respondent-

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Corporation is directed to refund the amount, deducted from the family pension of the petitioners, within a period of 03 months from the date of receipt of certified copy of this order.

15. However, liberty is granted to the respondents-Corporation for reduction in the family pension of the petitioners if they deem it appropriate after complying with the principles of natural justice and adhering to the relevant rules and regulations.

22.08.2024*Kothiyal***(NAMIT KUMAR)
JUDGE**

Whether Speaking/reasoned Yes/No

Whether Reportable Yes/No