

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

229

CWP-15463-2020

Date of Decision :18.01.2024

Krishna Devi**...Petitioner****Versus****State of Haryana and others****....Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Navdeep Singh, Advocate and
Ms. Apoorva Pushkarna, Advocate for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

Ms. Preeti Grover, Advcoate for
Mr. Saurav Verma, Advocate for respondents No.3 and 4.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance of the petitioner is that without giving any show cause notice to her, recovery of an amount of Rs.628630/- later revised as Rs.440031/- has been made by the respondents from the petitioner, which action of the respondents is totally arbitrary and illegal and is impermissible under law.

2. Learned counsel for the petitioner submits that any order causing prejudice to an employee, much more financially, can only be passed after giving due opportunity of hearing to the employee concerned qua the proposed action whereas, order dated 28.10.2019 (Annexure P/1) has been passed by the respondents deducting the excess amount from the petitioner without issuing any show cause notice, which is not permissible.

3. Learned counsel for the respondents on the other hand submits

that once there is an undertaking given by the petitioner that any amount paid in excess, can be withdrawn from her, the same can be done even without issuing any show cause notice.

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

5. As per the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.9417-2019** titled as **M/s Daffodils Pharmaceuticals Ltd. and another vs. State of U.P. and another** decided on 13.12.2019 and **Chamoli District Co-operative Bank Ltd through its Secretary/Mahaprandhak and another vs. Raghunath Singh Rana and others**, 2016(12) SCC 204, decided on 17.05.2016, any order causing prejudice to an employee is to be passed after following rules of natural justice and proposed action has to be informed to the employee concerned and objections are to be invited and, thereafter, keeping in view the objections raised, appropriate order is to be passed.

6. Learned counsel for the respondents has not been able to justify as to how unilaterally any order of recovery could have been passed even if, there is an undertaking given by an employee regarding the same.

7. Further, in the present case, the undertaking given by the petitioner is being disputed keeping in view the fact that no such details as to on what account the said undertaking was being taken by the respondents has been mentioned, as the performa was signed by the widow before receiving family pension. The said objection has also to be dealt with by the respondents in case the same is raised by the petitioner before passing an order as to whether recovery in the facts and circumstances of the present

case is permissible under law.

8. Keeping in view the facts and circumstances noticed hereinbefore coupled with the settled principle of law, impugned order dated 28.10.2019 (Annexure P/1) passed by the respondents is set aside with liberty to the respondents to pass a fresh order in accordance with law by following due procedure as envisaged under law.

9. Any amount, which has been recovered under the impugned order from the petitioner, be refunded to her within a period of two months from the date of receipt of copy of this order, in case no fresh order is passed by the respondents within the said period of time or as per fresh order passed, no recovery is permissible against the petitioner.

10. As the State is also party to the present petition, in case they have received the said amount from the respondent-bank, the same be deposited in the account from where it has been received by them.

11. Present petition is allowed in above terms.

January 18, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No