

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-18089-2019
Date of Decision: 29.01.2024

PARKASH SINGH

... Petitioner

VERSUS

STATE BANK OF INDIA

... Respondents

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

Present: Mr. A.P.S. Sidhu, Advocate for
Mr. Surinder Garg, Advocate
for the petitioner.

Mr. Vikas Chatrath, Mr. Dharamvir,
Mr. Sachit Katoch and Mr. Rajbir Singh
Advocates for the respondent-Bank.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the demand notice dated 17.10.2018 and the communication dated 03.12.2018 whereby recovery of Rs.4,57,040/- has been ordered to be made from the petitioner in equated monthly installments.

Counsel for the petitioner vehemently contends that the petitioner had been drawing monthly pension, as per applicable service Rules, after having retired as Conductor with the Punjab Roadways, Sri Muktsar Depot on 30.06.2005. The monthly pension of the petitioner in the month of September 2018 was Rs.13,783/-. However, on 17.10.2018, a demand notice regarding recovery of excess pension of Rs.4,57,040/- was served on the petitioner averring that an excess pension due to excess D.A. had been released in favour of the petitioner and that the same ought to be refunded to the respondent-Bank

in lump sum. The reduction to the tune of Rs.4,590/- was thus initiated from the pension of the petitioner as a result whereby, the pension of the petitioner was reduced to Rs.9880/- per month. Another letter was received by the petitioner for recovery of the old D.A. on 03.12.2018. A legal notice was thereafter issued by the counsel for the petitioner to the respondent-Bank to stop the recovery, however the same was declined to be acceded to. Aggrieved thereof, the present writ petition has been filed.

The learned counsel appearing on behalf of the respondent-Bank contends that the present writ petition is liable to be dismissed since an excess amount had been released in favour of the petitioner on fixation of higher pension, even though the same was neither admissible nor payable to him. An inadvertent release of excess amount would not confer any title on the petitioner to retain the said money. The recovery of excess pension was effected by way of monthly installments commencing from October 2018 onwards. It is further contended that there is no relationship of employer and employee between the petitioner and the respondent-Bank and that the respondent-Bank is acting only as a pension disbursing agency for and on behalf of the Sanctioning Authority. A mere error in crediting pension cannot thus fasten liability on the respondent-Bank and a recipient of an undue benefit would be liable to refund the excess benefit received by him. He further contends that the issue in question has already been decided by this Court in CWP No.14116 of 2015 titled as 'Chaman Lal Vs. State of Punjab & Others' decided on 27.04.2022 as well as in CWP-8511 of 2020 titled as 'Surinderjit Singh Vs. State of Punjab & Others' decided on 12.09.2023. Both these cases pertain to the wrong re-fixing of the pension by the Bank and the recovery thereof. The action of the bank in

effecting the recovery has been upheld by this Court by referring to the judgment in the matter of State of Punjab and others Vs. Rafiq Masih (White Washer) etc. reported as (2015) 4 SCC 334 and holding that the said judgment is not applicable to the facts of the concerned case.

Reliance was also placed on a Division Bench Judgment of this Court in LPA No.874 of 2014 titled as 'Balbir Singh Versus State of Haryana and others' decided on 04.09.2014 to contend that clerical mistake in re-fixation of the pension can be rectified and the excess amount paid can be duly recovered.

The abovesaid orders passed by this Court are not refuted or denied by the counsel for the petitioner. The counsel for the petitioner also does not dispute that the controversy involved in the present case is covered by the ratio of the above judgment.

In view of the above, I do not find any merit in the present petition, and the same deserves to be dismissed in light of the judgments passed by this Court in the matters of *Chaman Lal and Surinderjit Singh (supra)*.

The instant petition is accordingly dismissed.

JANUARY 29, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No