



CWP-6107 of 2011

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

979

CWP-6107 of 2011

Date of decision:03.10.2024

Kesar Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for quashing the order dated 18.10.2010, Annexure P-11, while withdrawing the 1st ACP granted and recovery was recovered which was challenged on the ground that there was no misrepresentation or fraud on the part of the petitioner.

2. This Court vide order dated 06.04.2011 stayed the recovery and in the meantime, the petitioner, who had joined the service in the year 1974, would have even retired, as such the present petition is covered by the judgment in **Krishan Kumar Singla vs. State of Punjab and Others**, CWP-11341-2003, decided on 20.09.2010, SLP against which was dismissed on 05.12.2014. The relevant paras of Krishan Kumar Singla (supra) read thus:

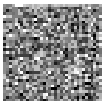
“5. The following needs to be extracted from Budh Ram's case (supra), for consideration of the issue raised in this petition :

"It is in the light of the above pronouncement. no longer open to the authorities granting the benefits, no matter erroneously, to contend that even when the employee concerned was not at fault and was not in any way responsible for the mistake committed by the authorities they are entitled to recover the



benefit that has been received by the employee on the basis of any such erroneous grant. We say so primarily because if the employee is not responsible for the erroneous grant of benefit to him/her, it would induce in him the belief that the same was indeed due and payable. Acting on that belief the employee would, as any other person placed in his position arrange his affairs accordingly which he may not have done if he had known that the benefit being granted to him is likely to be withdrawn at any subsequent point of time on what may be then said to be the correct interpretation and application of rules. Having induced that belief in the employee and made him change his position and arrange his affairs in a manner that he would not otherwise have done, it would be unfair, inequitable and harsh for the Government to direct recovery of the excess amount simply because on a true and correct interpretation of the rules, such a benefit was not due. It does not require much imagination to say that additional monetary benefits going to an employee may not always result in accumulation of his resources and savings. Such a benefit may often be utilized on smaller luxuries of life which the employee and his family may not have been able to afford had the benefit not been extended to him. The employees can well argue that if it was known to them that the additional benefit is only temporary and would be recovered back from them, they would not have committed themselves to any additional expenditure in their daily affairs and would have cut their coat according to their cloth. We have, therefore, no hesitation in holding that in case the employees who are recipient of the benefits extended to them on an erroneous interpretation or application of any rule, regulation, circular and instructions have not in any way contributed to such erroneous interpretation nor have they committed any fraud, misrepresentation, deception to obtain the grant of such benefit, the benefit so extended may be stopped for the future, but the amount already paid to the employees cannot be recovered from them."

6. In view of the above, this petition is allowed in terms of Budh Ram & Others vs. State of Haryana & Others (Civil Writ Petition No.2799 of 2008, decided on 22.5.2009) reported as 2009(3) PLR 511. Accordingly, it is directed that respondents would have no right to effect recovery from the petitioner. In the meantime, in the interregnum period if any recovery has been effected, the amount shall be refunded to the petitioner within four months of receipt of a certified copy of this order. The action of the



respondents in regard refixation of pay, however, is maintained.”

3. A gainful reference can be made to the judgment **Thomas Daniel vs. State of Kerala**¹, wherein by relying on **Sahib Ram vs. State of Haryana**² and **State of Punjab vs. Rafiq Masih**³, Hon’ble the Supreme Court held that generally, the recovery of amounts paid in excess are impermissible to be affected.

4. Learned State counsel is unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

5. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Krishan Kumar Singla** (supra).

(AMAN CHAUDHARY)
JUDGE

03.10.2024
dinesh

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

1 2022 SCC OnLine SC 536
2 1995 Supp (1) SCC 18
3 (2015) 4 SCC 334