

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

(219)**CWP-20387-2015****Date of Decision: 12.02.2024**

Ram Niwas and others

.....Petitioners

Versus

Punjab Water Resources Management & Development Corporation Ltd.

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. A. S. Walia, Advocate, for the petitioner.

Mr.Aman Sharma, Advocate, for the respondents.

NAMIT KUMAR, J.(ORAL)

1. The present writ petition has been filed by the petitioners impugning the orders dated 27.02.2015, 16.09.2013, 06.05.2014, 22.01.2015, 16.09.2013 and 05.11.2014 (Annexures P-1 to P-6 respectively) whereby, recovery of excess pay has been made from the retiral dues of the petitioners.

2. It is the case of the petitioners that while effecting the said recovery from his retiral dues, neither any show cause notice was issued to the petitioners nor any opportunity of personal hearing was granted and the action of the respondents is in violation of principle of natural justice. He further submits that in an identical case being **CWP No.13329 of 2016** titled as **Arvind Kumar Vs. Punjab Water Resources Management & Development Corporation and anr.**, the same issue was raised and a detailed order dated 20.02.2023 was passed by the Co-ordinate Bench of this Court and the same is read as under:-

“ It has been submitted by learned counsel for the petitioner that when the petitioner had retired on 31.10.2012 and his retiral benefits were to be released to the petitioner, the respondent

*Corporation deducted/recovered an amount of Rs.89,451/- from the leave encashment of the petitioner. He submitted that the same could not have been done in view of the judgment of the Hon'ble Supreme Court of India in view of the ratio of the judgment of the **State of Punjab and others versus Rafiq Masih (White Washer) etc. 2015 (4) SCC 334***

*On the other hand, learned counsel appearing on behalf of the respondents-Corporation has submitted that the case of the petitioner is not covered by the ratio of the aforesaid judgment of **Rafiq Masih's** case (supra) but it is covered by another judgment of the Hon'ble Supreme Court in **High Court of Punjab and Haryana versus Jagdev Singh** (2016) 14 SCC 267, since he had given undertaking vide Annexure A-1.*

A perusal of the aforesaid Annexure A-1 would show that it is undated.

Apart from the above, as per the undertaking given by the petitioner (Annexure A-1), it is so stated that the petitioner has given an undertaking that with regard to the new pay scales with effect from 01.01.2006 in case his pay is wrongly fixed, then he will not object to the recovery. However, a perusal of the reply filed by the Corporation would show that the reply is totally vague.

During the course of arguments, learned counsel for the petitioner has submitted that the respondents Corporation had recovered the amount which was paid to the petitioner on 01.01.2006 and with regard to the new pay commission it was although implemented from 01.01.2006 but the notification in that regard was issued much later and therefore it was not possible that the petitioner has withdrawn excess amount on 01.01.2006 and in fact disbursement of pay as on 01.01.2006 was pertaining to the earlier pay revision and therefore the aforesaid undertaking will not be applicable to the present recovery because the language of undertaking would show that it pertains to the new pay scale which came effected on 01.01.2006. In other words, the new pay scale notification was issued much after 01.01.2006 but as per the Corporation the petitioner had overdrawn on 01.01.2006 and thereafter the recovery has been made pertaining to the alleged overdrawn amount which was pertaining to an earlier pay revision and not the pay revision which was pertaining to 01.01.2006 and therefore the aforesaid undertaking is not applicable to the present case.

It is not understandable as to why a vague affidavit has been filed by the Corporation which has wasted the time of the Court.

In view of the above, the Managing Director of the respondent Corporation is directed to file his own affidavit by clarifying the aforesaid factual position and also to depute some senior officer not below the rank of Superintending Engineer alongwith the entire record of the case to be present in the Court on the next date of hearing.

For the sake of repetition, it is directed that the affidavit which is to be filed by the Managing Director should be in clear terms and should not be vague.

Adjourned to 14.03.2023.

*Sd/-
(JASGURPREET SINGH PURI)
JUDGE”*

February 20, 2023

3. Learned counsel for the petitioner submits that after passing of the said order, an additional affidavit dated 10.03.2023 was filed by the Managing Director, Punjab Water Resources Management & Development Corporation wherein, it is stated as under:

XXX XXX XXX XXX

“.....Upon re-consideration of the matter, the deponent has issued Office Order dated 10.03.2023, whereby it has been decided to withdraw the earlier Order dated 02.05.2013 as well as Order dated 24.12.2014 (Annexure P-2) and it has been further directed to release the amount of Rs.89,451/- along with interest @ 6% in favour of the petitioner. Copy of the Office Order dated 10.03.2023 is appended herewith as Annexure A-1.

XXX XXX XXX XXX

4. Thereafter the said writ petition was disposed of vide order dated 10.04.2023 by passing the following order:

“Reply has been filed by the Managing Director, Punjab Water Resources Management & Development Corporation on behalf of the respondents Nos. 1 & 2. The same is taken on record.

Learned counsel for the respondents while referring to para No.5 of the affidavit has submitted that upon re-consideration of

matter, the Managing Director of the Corporation has issued office order dated 10.03.2023 whereby it has been decided to withdraw the earlier order dated 02.05.2013 as well as order dated 22.12.2014 (Annexure P-2) and it has been further directed to release the amount of Rs. 89,451/- along with interest @ 6% in favour of the petitioner.

Learned counsel for the petitioner has submitted that in view of the reply which has been filed by the Managing Director of the Corporation, the present petition has become infructuous and the same may be disposed of, accordingly.

Learned counsel for the respondent has also submitted that a cheque for an amount of Rs.1,45,507/- has been handed over to the petitioner in the Court, today.

The present petition is disposed of as having been rendered infructuous.”

***Sd/-
(JASGURPREET SINGH PURI)
JUDGE”***

10.04.2023

5. Learned counsel for the petitioners submits that in view of the said order, the impugned orders (Annexure P-1 to P-6) are liable to be set aside.
6. Faced with this situation, learned counsel for the respondents submits that the case of the petitioners shall be reconsidered and decided and appropriate orders shall be passed thereupon.
7. In view of the above, the present writ petition is disposed of in the above terms. Let the necessary exercise be carried out within a period of two months from the date of receipt of the certified copy of this order.

**(NAMIT KUMAR)
JUDGE**

12.02.2024
anil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No