

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 204)

(1)

CWP No. 25382 of 2015
Date of Decision : 10.01.2024

Angoori Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

(2)

CWP No. 25430 of 2015

Raj Wanti

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Sonia G. Singh, Advocate for the petitioner(s)
 in both cases.

 Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

 Mr. Karan Kalra, Advocate for
 Mr. Sandeep Verma, Advocate for respondent No. 3.

Harsimran Singh Sethi J. (Oral)

1. By this common order, two writ petitions, the details of which have been given in the heading, are being decided as both these petitions involve the same question of law on similar facts.

2. In the present petitions, the grievance of the petitioner(s) is that vide the impugned orders, the amount of family pension being received by the petitioner(s) has been revised and the excess amount received by the petitioner(s) on account of incorrect fixation of the family pension is sought to be recovered from them.

3. Learned counsel for the petitioner(s) argues that claim of the petitioner(s) with regard to the refund of the excess amount is covered by the judgment of the Hon'ble Supreme Court of India in ***State of Punjab and others Vs. Rafiq Masih (White Washer) etc.***, 2015(1) S.C.T., 195, wherein, it has been mentioned that no recovery of an amount can be done in case, the same was paid for a continuous period of five years, hence, the recovery, which is being sought to be recovered from the petitioner(s) is totally arbitrary and illegal and contrary to the settled principle of law as settled in ***Rafiq Masih's case (supra)***.

4. Learned State counsel, on the other hand, submits that in the present case, the order has been passed by the bank concerned and not by the State but a bare perusal of the impugned orders would show that before getting the family pension fixed, the petitioner(s) had given an undertaking that in case, there is any wrong calculation done, the petitioner(s) will refund the amount and the bank will be within its jurisdiction to recover the excess amount, hence, the petitioner(s) cannot raise any grievance with regard to the recovery being done by the bank concerned.

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

6. The only question, which arises in the present petitions is whether the excess amount paid to the petitioner(s) in the form of family pension can be recovered by the bank or not.

7. As per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Rafiq Masih's case (supra)***, any amount which has been paid to an employee for a period of five years and there is no misrepresentation, the said amount cannot be recovered but the judgment of the Hon'ble Supreme Court of India in ***Rafiq Masih's case (supra)*** has been considered by the Hon'ble Supreme Court of India in Civil Appeal No. 3500 of 2006 titled as ***High Court of Punjab & Haryana and others Vs. Jagdev Singh***, decided on 29.07.2016, wherein, the Hon'ble Supreme Court of India has held that where an undertaking has been given by an employee at the time of receiving any benefit that in case any excess amount is received and the same is to be recovered, the undertaking can be given effect to so as to recover the excess amount paid. The relevant paragraph-11 of the judgment in ***Jagdev Singh's case (supra)*** is as under :-

“The principle enunciated in proposition (ii) above cannot apply to a situation such as in the present case. In the present case, the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. The officer furnished an

undertaking while opting for the revised pay scale. He is bound by the undertaking.”

8. Learned counsel for the petitioner has not been able to rebut the said settled principle of law.

9. That being so, keeping in view the fact that in the impugned orders, the bank has mentioned that recovery is being done keeping in view the undertakings given by the petitioner(s), the judgment in ***Jagdev Singh’s case (supra)*** will be applicable in the case of the petitioner(s) and not the ***Rafiq Masih’s case (supra)*** as being claimed by the petitioner(s).

10. No ground is made out for any interference by this Court in the present petitions.

11. Dismissed.

A photocopy of this order be placed on the file of connected cases.

January 10th, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No