



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

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CWP-19096-2020 (O&M)

Decided on :09.05.2024

HARJEET SINGH

.. petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. K. L. Arora, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. Vikas Chatrath, Advocate with
Ms. Tanya Sehgal, Advocate,
Mr. Abhishek Singla, Advocate and
Ms. Preetleen Kaur, Advocate for respondents NO. 2 & 3.

Ms. Swati Dayalan, Advocate for respondent No. 4.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the challenge is to the action of the respondents in recovering the excess amount from the petitioner and that too without giving any proper show cause notice to him including the material on the basis of which, the recovery of the excess amount was being done from the petitioner.

2. Learned counsel for the respondents on the other hand submits that the recovery of excess amount was done from the petitioner on the basis of audit report but learned counsel for the respondents very fairly conceded the factum that no such information regarding audit report was ever served upon the petitioner before effecting the recovery of the excess amount from the petitioner.

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

4. It is a settled principle of law that in case any recovery is to be



done from the retired employee, due care should be taken by the concerned department before effecting the recovery. A bare perusal of the show cause notice/demand notice dated 02.01.2018 which was given to the petitioner, copy of which has been appended as Annexure P-7, it has been mentioned that the petitioner has been paid the excess amount as per the audit report. Concededly the said audit report has never been supplied to the petitioner for his comment so that the petitioner could file due objection to said audit report and put forward in his own plea that he has not been paid the excess amount. In the absence of serving audit report upon the petitioner which was the basis of alleging excess amount being paid to the petitioner, no recovery could have been done from the petitioner.

5. Further, once, the show cause notice/demand notice which has been given to the petitioner was defective, no recovery could have been done from the petitioner on the basis of the same and hence, any recovery done by the respondent from the petitioner in the pursuance to the show cause notice/demand notice dated 02.01.2018 (Annexure P-7) cannot be held valid and same is accordingly set-aside.

6. At this stage, learned counsel for the respondents submits that no further recovery will be done from the petitioner but due opportunity be given to the respondents to furnish a proper show cause notice upon the petitioner and it is only after seeking the reply of the petitioner, appropriate decision will be taken, whether any recovery was admissible from the petitioner or not and in case, it is found that no recovery can be done from the petitioner, even the recovered amount will be refunded back to the petitioner.

7. Learned counsel for the petitioner submits that the amount



which has been recovered from him in case, not liable to be recovered be refunded back to the petitioner along with interest. .

8. In the present petition, the recovery done from the petitioner on the basis of show cause notice/demand notice dated 02.01.2018 (Annexure P-7) is held to be bad and the said show cause notice/demand notice is hereby quashed with liberty to the respondents -bank to issue a fresh show cause notice to the petitioner by attaching all the materials on the basis of which it is being alleged that the excess amount has been paid to the petitioner and the reply given by the petitioner including the jurisdiction of the bank to recover the excess amount should also be considered while passing appropriate order on the said show cause notice.

9. Further in case, after the reply of petitioner is considered, if it is found that no recovery can be done from the petitioner, the recovered amount be refunded back to the petitioner with interest @ 6 % per annum.

10. It will be appreciated that before finally deciding about the show cause notice by the respondent-bank, the petitioner be given personal hearing, the same will suffice the rule of the natural justice.

11. In case, no show cause notice is issued to the petitioner by the respondent-bank within a period of three months from the receipt of copy of this order, the respondents will refund the amount back which has been recovered from the petitioner alongwith interest @ 6 % per annum from the date of recovery of the said amount till the releasing of the same.

12. Ordered accordingly.

13. Pending civil miscellaneous application, if any, stands disposed of.



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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

(HARSIMRAN SINGH SETHI)
JUDGE