



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

108

CWP-21139-2023 (O&M)

Date of decision: 12.11.2024

Balwan Singh

....Petitioner

Versus

Union of India and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Satish Kumar Garg, Advocate for the petitioner

Mr. Gaurav Goel, Advocate for respondent Nos.3 to 5

AMAN CHAUDHARY, J. (ORAL)

1. The prayer made in the present petition is for quashing the demand notice dated 09.06.2023, Annexure P-5 passed by respondent No.4-Bank for effecting the recovery of excess pension calculated for the last 10 years, paid to the petitioner, a Sepoy who retired in 1985 on the premise that enhanced disability element was wrongly implemented of OROP vide circular 555 w.e.f. 07/2014, which has now been rectified and this Court stayed the same vide order dated 11.10.2023, whereafter on 06.03.2024, learned counsel appearing on behalf of respondent Nos.1 and 2-UOI had stated that no separate reply is required to be filed on its behalf.

2. The issue stands covered in favour of the petitioner, who retired in 1985, insofar as the recovery is concerned, by the judgment passed by this Court in **Krishan Kumar Singla vs. State of Punjab and Others**¹, SLP² against which was dismissed on 05.12.2014. The relevant paras of Krishan Kumar Singla (supra) read thus:

¹ CWP-11341-2003, decided on 20.09.2010

² SLP-936-2014, State of Punjab and others vs. Krishan Kumar Singla



“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affairs accordingly which he may not have done if he had known that the benefit being granted to him is likely to be withdrawn at any subsequent point of time on what may be then said to be the correct interpretation and application of rules.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 in **Thomas Daniel vs. State of Kerala**³, wherein by relying on **Sahib Ram vs. State of Haryana**⁴ and **State of Punjab vs. Rafiq Masih**⁵, Hon’ble the Supreme Court held that generally, the recovery of amounts paid in excess are impermissible to be affected.
4. Learned counsel for the respondents despite best efforts being unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law, the present petition is disposed of in terms of the judgment passed in **Krishan Kumar Singla** (supra).
5. In view of the above, learned counsel on instructions from the petitioner undertakes to withdraw the COCP-441-2024, filed by him.

(AMAN CHAUDHARY)
JUDGE

12.11.2024

M.Kamra

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

³ 2022 SCC OnLine SC 536

⁴ 1995 Supp (1) SCC 18

⁵ (2015) 4 SCC 334