

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

111+269

CWP-2037-2023 (O &M)
Date of Decision: 16.01.2025

Raman

.....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

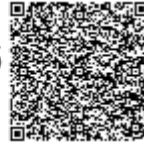
Present: Mr. F.S. Dhillon, Advocate,
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. Petitioner through instant petition filed under Articles 226 and 227 of Constitution of India seeks setting aside of orders dated 25.06.2021 and 23.11.2022 (Annexures P-3 and P-4) whereby respondent has recovered a sum of Rs.5,58,135/- from the retiral benefits/family pension.

2. The petitioner is widow of Mr. Jawahar Lal who passed away on 07.03.2021. He had retired from the office of Punjab Police on 31.01.2020. He was holding post of Senior Assistant at the time of retirement. He, prior to his date of superannuation, remained on earned leave from 10.04.2019 to 29.01.2020. He was required to fill up different forms with respect to his retiral dues well in advance. However, he filled up his forms on 12.01.2020. The authorities on account of paucity of time and urgency to release retiral dues, did



pensionary benefits. On account of non-consideration of period of earned leave, a sum of Rs.5,58,135/- came to be paid over and above the entitlement.

3. Mr. Dhillon, learned counsel for the petitioner submits that in view of judgment of Hon'ble Supreme Court in ***State of Punjab and others vs. Rafiq Masih (White Washer) and others, (2015) 4 SCC 334***, respondent cannot recover outstanding dues from the family pension. There was no mistake on the part of petitioner's husband. The respondent has wrongly withheld her family pension and it needs to be released alongwith interest.

4. *Per contra*, Mr. Dhir submits that petitioner's husband remained on earned leave from 10.04.2019 to 29.01.2020 and attained age of superannuation on 31.01.2020. He was supposed to submit leave application performa well within time whereas despite repeated requests, he submitted the same on 12.01.2020. On account of paucity of time, the official concerned wrongly determined pension and other benefits. Resultantly, excess payment of Rs.5,58,135/- was made.

5. I have heard the arguments and perused the record. The petitioner's husband retired on 31.01.2020 and he was on leave from 10.04.2019 to 29.01.2020. The leave period was required to be considered while determining pension and other retiral dues. The deceased employee did not submit requisite forms well within time and respondent while attempting to release pension and other benefits at the earliest, made a mistake and a sum of Rs.5,58,135/- came to be released over and above the actual entitlement. This is not a case of wrong fixation of pay during the service whereas it is a case of wrong fixation of pension and other retiral dues on account of non-consideration of leave period

which was just before the date of retirement. The petitioner cannot take benefit



of mistake of respondent-officials. It is not a case that where excess payment was made much prior to date of retirement whereas it is a case that excess payment was made at the time of retirement. The respondent cannot be deprived from its right to recover excess payment. It is a public money and at the cost of lapse on the part of one or another official, excess payment cannot be made to any employee. This Court does not find any infirmity in the action of the respondent. At the same moment, the respondent has no right to withhold pension or other benefits over and above the alleged excess amount.

6. In the wake of above discussion and findings, the instant petition stands disposed of with a direction to respondent to calculate dues of the petitioner and after deducting aforesaid amount, make payment within one month from today. It is further made clear that if the petitioner is entitled to any amount over and above the aforesaid excess payment, she would be entitled to interest @ 9% per annum.

7. Pending application, if any, shall also stands disposed of.

16.01.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No