

236

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

CWP-9845-2023 (O&M)
Date of Decision: 03.12.2025

BALWINDER KAUR

....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Kumar, Advocate
for the petitioner.

Mr. Vikas Sonak, AAG, Punjab.

Mr. Kunal Mulwani, Advocate
for respondent No.2.

Mr. T.S. Sidhu, Advocate
for respondent Nos.3 and 4.

HARPREET SINGH BRAR, J. (Oral)

1. Prayer in the present petition preferred under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of *certiorari* seeking quashing of the order dated 16.09.2022 (Annexure P-4), vide which the amount of Rs.1,97,074/- has been deducted from the service benefits of petitioner's deceased husband and directing the respondents to release an amount of Rs.1,97,074/- alongwith interest @ 18% and to release the remaining balance amount of Death-cum-Retirement Gratuity as the petitioner is also entitled for Death-cum-Retirement Gratuity of Rs.10,00,000/- etc.

2. Learned counsel for the petitioner *inter alia* contends that the husband of the petitioner was appointed with the respondent-Corporation on 11.12.1984 and he died in harness on 05.12.2011. At that time, husband of

the petitioner was posted as Upper Division Clerk and he was drawing the salary of Rs.40,217/- per month, as discernible from his salary slip (Annexure P-1). After the death of her husband, the petitioner received the amount of GPF, solatium etc. and she was not aware of the entitlement regarding Death-cum-Retirement Gratuity (for short 'DCRG') and other benefits consequent to death of her husband. Thereafter, the petitioner sought information under Right to Information Act, 2005, from which, she came to know that the respondent-Corporation has sanctioned leave encashment of 300 days vide order dated 02.03.2012 (Annexure P-2). It is further contended that till date, the petitioner has not received the amount of 300 days leave encashment and she is also entitled to DCRG of Rs.10,00,000/-. As such, the petitioner served a legal notice on 01.08.2022 (Annexure P-3). After that, the petitioner approached this Court by way of filing CWP-21493-2022 and during pendency of the same, respondent No.4 passed an order dated 16.09.2022 (Annexure P-4). The said writ petition was dismissed as withdrawn on 29.09.2022, as claim of the petitioner was considered by passing the appropriate orders. However, liberty was granted to the petitioner to challenge the speaking order (Annexure P-4).

3. Learned counsel for the petitioner submits that recovery of Rs.1,97,074/- has been effected from leave encashment without there being any representation. As such, recovery post-retirement is not permissible in terms of the judgments rendered by the Hon'ble Supreme Court in ***Civil Appeal No.6770 of 2013 titled as State of Jharkhand and Others vs. Jatinder Kumar Sriwastava and another and State of Punjab and others vs. Rafiq Masih (White washer) and Others, 2015 (1) SCT 195 SC.***

4. *Per contra*, learned counsel for the respondent submits that the impugned recovery was effected on the basis of the representation made by

the deceased husband of the petitioner who was promoted on 30.06.2010. On 02.07.2010, he made a representation to forego his promotion, as such, the recovery is made. Thereafter, the promotion order was withdrawn and financial benefits resulted into recovery of Rs.1,97,074/- at the behest of the deceased husband of the petitioner. In this regard, learned counsel has produced the order dated 07.07.2010 in the Court today, which is taken on record as **Mark 'A'**. He further submits that the petitioner represented to forego his promotion for three years and admissible benefits i.e. time bound scale or promotional increment on completion of 09, 16 and 23 years of service.

5. Having heard the learned counsel for the parties and after perusal of the record of the case with their able assistance, it transpires that all the admissible dues have been paid to the petitioner after the death of her husband and recovery of Rs.1,97,074/- was made from amount of leave encashment of 300 days. The husband of the petitioner was promoted on 30.06.2010, however, he represented on 02.07.2010 to forego his promotion, accordingly, an order dated 07.07.2010 (Mark 'A') was passed accepting the representation of the petitioner. It was ordered that the petitioner would be considered for promotion after three years, in case he makes representation in this regard and also for grant of admissible benefits including the time bound pay scale of 9/16-23 years. The deceased husband of the petitioner during his life time neither raised any objection nor made any representation in this regard. As such, the impugned recovery in the present petition is effectuated on the basis of representation made by deceased husband of the petitioner on 02.07.2010 which is the document as mark 'A'.

6. In view of the facts and circumstances of the case, this Court



the Constitution of India. Accordingly, the present writ petition is dismissed with no order as to costs.

(HARPREET SINGH BRAR)
JUDGE

03.12.2025
shruti

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