

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(209)

CWP No. 27411 of 2016 (O&M)

Date of Decision : 02.05.2025

Food Corporation of India

...Petitioner

Versus

Gurpreet Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

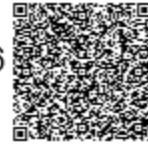
Present: Mr. Pranav Chadha, Advocate for the petitioner.

Mr. Mandeep Singh Sachdev, Advocate for respondent No. 1.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that by the order dated 20.05.2016 (Annexure P-5) and order dated 31.03.2014 (Annexure P-3) passed by the authorities exercising jurisdiction under the Payment of Gratuity Act, 1972 (hereinafter referred to as '1972 Act'), an order has been passed to release the entire amount of gratuity admissible to the respondent No. 1-workman ignoring the fact that while being in service, certain recoveries were ordered to be recovered from the respondent No. 1-workman.

2. Learned counsel for the petitioner argues that there were certain recoveries, which were to be done from the petitioner, which order of recoveries was passed against the respondent No. 1-workman during the service career of the respondent No. 1-workman but the said recoveries could not be effected upto the date of the retirement of the respondent No. 1-

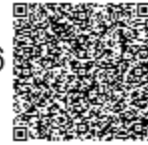


workman hence, the said recoveries were sought to be done from the amount of gratuity admissible to the respondent No. 1-workman.

3. Learned counsel for the petitioner submits that while ignoring the said fact, the authorities concerned exercising jurisdiction under 1972 Act have directed the petitioner to release the entire amount of gratuity admissible to the respondent No. 1-workman along with interest on the said amount of gratuity. Learned counsel further submits that the action of the petitioner-department adjusting the recoveries which were to be recovered from the respondent No. 1-workman from the amount of gratuity admissible to the respondent No. 1-workman has been held to be bad by the authorities exercising jurisdiction under 1972 Act.

4. Learned counsel for respondent No. 1-workman submits that though, it is being stated by the petitioner-department that certain orders of recoveries were passed against the respondent No. 1-workman while he was in service but no such orders have been brought to the notice of either the authorities who were exercising jurisdiction under 1972 Act while passing the impugned order or even in the present writ petition, no such orders have been brought to the notice of this Court which are stated by the petitioner-department to have been passed before the retirement of the respondent No. 1-workman imposing any recovery from him, by following due process of law.

5. Learned counsel for the petitioner-department was asked to point out any such orders of recovery passed by the competent authority directing recovery from the petitioner while he was in service. Learned counsel for the petitioner-department has not been able to show to this Court



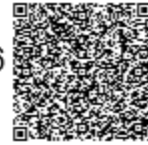
any such order passed by the authorities concerned imposing any recovery, which amount of recovery was actually sought to be recovered from the gratuity admissible to the respondent No. 1-workman.

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

7. It is a settled principle of law settled by the Hon'ble Supreme Court of India while deciding SLP (C) No. 11025 of 2020 titled as ***M/s Steel Authority of India Ltd. Vs. Raghendra Singh and others***, decided on 15.12.2000, wherein, it has been held by the Hon'ble Supreme Court of India that any recovery order pending, whereby recovery is sought to be done from the employee concerned while the employee was in service, the same can be done from the amount of gratuity that is admissible to the employee.

8. The question which arises for consideration in the present case is whether without there being any order of recovery passed by the competent authority while the employee was in service, by following due process of law, the recovery from an employee can be done or not.

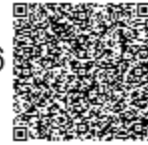
9. As per the settled principle of law, no recovery can be done from an employee only upon an allegation alleged against him, without holding any departmental proceeding qua the said allegation and passing an appropriate speaking order by giving due opportunity of hearing to the employee concerned. Today also, during the hearing, learned counsel for the petitioner-department was asked to point out the order by which the recovery was imposed upon the respondent No. 1-workman, in pursuance to which order of recovery, the amount of gratuity was adjusted.



10. Learned counsel for the petitioner-department has not been able to point out any such order to this Court, in pursuance to which, the recovery from the amount of gratuity admissible to the respondent No. 1-workman was sought to be done. In the absence of any such recovery order brought to the notice of the authorities exercising jurisdiction under 1972 Act or before this Court, it cannot be said that there was any valid order of recovery against the employee passed by appropriate authority while the employee was in service, which would entitle the petitioner-department to effect the recovery from the gratuity amount admissible to the employee. Hence, the stand taken by the petitioner that there were certain recoveries to be done from the employee concerned keeping in view the orders passed by the competent authority while the employee was in service, which amount of recovery was to be adjusted from the amount of gratuity admissible to the respondent No. 1-workman, cannot be accepted.

11. The orders passed by the authorities concerned exercising jurisdiction under 1972 Act have not been proved to be perverse either on the basis of any evidence or fact that has come on record.

12. Learned counsel for the petitioner submits that a chart has been supplied giving the dates of imposing the punishment of recovery upon the respondent No. 1-workman. Nothing has come on record which could show whether the said order relates to punishment of recovery or not. Further, the chart supplied will not be a proof to conclude that any recovery was to be done from respondent No. 1-workman unless and until the order passed by the competent authority shows that the recovery was ordered and same was not implemented prior to retirement. The chart imposing punishment of



recovery has been prepared by the petitioner-department hence, the chart prepared cannot be taken as a ground for effecting the recovery from the employee concerned.

13. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

14. Dismissed.

15. Pending miscellaneous application, if any, also stands disposed of.

May 02, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No