2025:PHHC:101132

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.22661 of 2025 (O&M)
Date of decision: 06.08.2025

Sagar Bansal and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Navdeep, Advocate for
Mr. Sunny K. Singla, Advocate
and Mr. Sherry K. Singla, Advocate for the petitioners.

Mr. Siddharth Sandhu, AAG, Punjab.

Mr. Vikas Chatrath, Advocate
for respondents No.2 to 7.

HARPREET SINGH BRAR J. (Oral)

1. The instant civil writ petition has been filed under Articles 226/227 of the Constitution of India, claiming the following reliefs:-

> *(i) issue a writ in the nature of certiorari seeking quashment of the recovery initiated by the respondents against the petitioners as per the reply dated 09.06.2025 submitted by respondent department (Annexure P-4) and letter bearing Memo No.321 dated 03.06.2025 and Memo No.388 dated 27.06.2025 and Memo No.397 dated 30.06.2025 (Annexure P-5 to P-7) issued by respondent department being illegal, arbitrary and against the provision of law and considering the facts and circumstances of the case;*
>
> *(ii) the operation of the impugned reply dated 09.06.2025 submitted by respondent department (Annexure P-4) and*

letter bearing Memo No.321 dated 03.06.2025 and Memo No.388 dated 27.06.2025 and Memo No.397 dated 30.06.2025 (Annexure P-5 to P-7) issued by respondent department and recovery proceedings against the petitioners may kindly be stayed till the pendency of the writ petition;

(iii) issue a writ in the nature of Mandamus directing the respondents to return/refund the illegal recovery/deductions made by the respondent department from the salary account of the petitioners in view of recovery proceedings initiated by the respondent department alongwith the interest @ 18% p.a. considering the facts and circumstances of the case;

(iv) issue a writ in the nature of Mandamus directing the respondents to pay the arrears from the date of completion of the probation period till date alongwith the interest @ 18% p.a. considering the facts and circumstances of the case;

(v) issue any other appropriate writ, order or direction, as this Hon'ble Court may deem just and proper, keeping in view the peculiar facts and circumstances of the present case.

2. Learned counsel for the petitioners, *inter alia*, contends that the petitioners are the employees of Punjab State Transmission Corporation Limited (in short 'the Corporation') and they were appointed to the post of Assistant Executive Engineer with the Corporation. Earlier, petitioner No.1 approached this Court by way of filing a writ petition i.e. CWP No.19393 of 2024, praying for issuance of a writ in the nature of mandamus to grant the same pay-scale to the

petitioner as has been granted to other selected candidates in terms of the advertisement CRA-05/2019, CRA-290/2017 and vide order dated 12.08.2024, this Court has disposed of the said writ petition filed by petitioner No.1 with a direction to decide the legal notice dated 21.05.2024 filed by him. Initially, the pay of the petitioners was fixed as per the 5th Central Pay Commission i.e. Basic Pay @ Rs.16,650/- per month from the date of joining. However, in the advertisement issued by respondent – Corporation, the pay-scale offered was of 7th Central Pay Commission. Further vide office order No.112 dated 06.02.2023, the Corporation implemented the 7th Central Pay Commission and basic pay of the petitioners was revised from Rs.16,650/- to Rs.47,600/- per month from the date of joining. At no point of time, the revision of the pay-scale in the adoption of 7th Central Pay Commission, the petitioners have not exerted any influence or made any representation. The petitioners continued to draw the salary under the 7th Central Pay Commission for a considerable period and timely disbursements and statutory deductions were made in line with 7th Central Pay Commission Pay Matrix. Thereafter, vide impugned order dated 02.01.2025 (Annexure P-2), the respondent – Corporation took a U-turn and revised the pay structure of the petitioners to 5th and 6th Punjab Pay Commission. Thereafter, the respondent – Corporation started making unilateral deductions from the salary of the petitioners on the pretext of excess payment without issuing any show cause notice or any other written speaking order. It is further submitted that no intimation whatsoever has been given to the present petitioners. Aggrieved by the act and conduct of respondent – Corporation, the petitioners sent a legal notice dated 08.04.2025 (Annexure P-3), which has been decided by the competent authority on 09.06.2025 (Annexure P-4).

3. Learned counsel for the petitioners refers to the reply of legal notice dated 09.06.2025 (Annexure P-4) and submits that the reasoning given in the said reply to legal notice vindicates the stand taken by the petitioners and after granting the benefit of 7th Central Pay Commission, the respondent – Corporation made a U-turn and ordered recovery.

4. Notice of motion.

5. Mr. Siddharth Sandhu, AAG, Punjab, who is present in the Court accepts notice on behalf of respondent No.1 – State while Mr. Vikas Chatrath, Advocate, has accepted notice on behalf of respondents No.2 to 7 and opposes the prayer made by the petitioners on the grounds that the petitioners are bound by their undertaking given at the time of their employment.

6. Learned counsel for respondents No.2 to 7 refers to the reply to the legal notice dated 09.06.2025 (Annexure P-4) and submits that the petitioners have already given the undertaking that in the event of pay having been fixed in a manner contrary to the provisions contained in these regulations as detected subsequently, any excess payment so made shall be refunded by the employee to the respondent – Corporation either by adjustment against future payment due to him or

otherwise. As such, the respondent – Corporation was fully justified in issuing the office order No.04/EST-2/Misc.18/SE/Admin dated 02.01.2025 (Annexure P-2), whereby the pay-scale of the petitioners have been revised and refixed and the recovery of amount paid in excess has been ordered.

7. Learned counsel for respondents No.2 to 7 further refers to the judgment passed by the Hon'ble Supreme Court in ***"High Court of Punjab & Haryana and others vs Jagdev Singh", 2016(4) SCT 286*** and submits that the petitioners are bound by the undertaking voluntarily given by them. It is contended that the actions of the respondent – Corporation fall well within the principles of natural justice, as the recoverable amount has already been duly communicated, therefore, the action taken by the respondent – Corporation is wholly justified.

8. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

9. Admittedly, the advertisement was issued and the pay-scale was offered to the petitioners in terms of the 7th Central Pay Commission, however, at the time of joining, the petitioners were initially granted pay in accordance with the 5th Central Pay Commission. Subsequently, vide Office Order No.112 dated 06.02.2023, the respondent – Corporation implemented the 7th Central Pay Commission, and the basic pay of the petitioners was revised from ₹16,650/- to ₹47,600/- per month, with effect from the date of joining. The

petitioners neither made any request nor exerted any influence for such revision. They continued to receive salary under the 7th Central Pay Commission structure for a considerable period, during which regular disbursements and statutory deductions were made accordingly. It was only vide Office Order dated 02.01.2025 (Annexure P-2) that the respondent – Corporation unilaterally revised the petitioners' pay structure to that of the 5th and 6th Punjab Pay Commission and started deducting amounts from their salary on the pretext of excess payment without issuing any show cause notice or passing a speaking or written order.

10. The issue with regard to excess payment from employees, particularly in cases where no misrepresentation or fraud was involved, is declared illegal and impermissible by the Hon'ble Supreme Court in ***State of Punjab and others vs Rafiq Masih (White Washer) (2015) 4 SCC 334***.

11. Similarly the issue involved in the present case is squarely covered by the Division Bench judgment of this Court in ***Union of India vs Ex-SI/GD Bachittar Singh***, passed in **LPA No.706 of 2023**, decided on **24.04.2024**, in which the principle culled out in ***Rafiq Masih's case (supra)*** was reiterated. The operative part of the said judgment reads as follows:-

> *"4. The learned Single Judge noticed that the present appellant had themselves granted the benefit of 7th Central Pay Commission and, thereafter, took the U-turn and got a clarification and thus, there was no mis-representation on*

> *the part of the writ petitioner and the rectification was or done. The additional salary had been received without any fault or undue influence misrepresentation and resultantly the judgment passed in Rafiq Masih (supra) has been relied upon while falling on Category (v) that it would be iniquitous or harsh or arbitrary and it far outweighs the employee's right to recover. The judgment in the case of Jagdev Singh (supra) was also distinguished on the ground that no such undertaking was given and, therefore, the said employee could not be prejudiced."*

12. Further the reliance placed by learned counsel for respondents No.2 to 7 on ***Jagdev Singh's case (supra)***, is wholly misplaced. The undertaking given by the petitioners is limited to the initial pay at the time of their appointment. The petitioners have never given any undertaking when the benefits of 7th Central Pay Commission were adopted and extended to all the employees including the present petitioners. The respondent – Corporation implemented the 7th Central Pay Commission without obtaining any fresh undertaking from the petitioners, therefore, any recovery of excess amount paid under the 7th Central Pay Commission, on the basis of a subsequent reversion to the 5th and 6th Pay Commission pay matrix, is unsustainable in the eyes of law as the petitioners have neither made any misrepresentation nor signed any undertaking consenting to the recovery when the respondent – Corporation has adopted the 7th Central Pay Commission.

13. In view of the facts pleaded and the legal position discussed hereinabove, including the respondent – Corporation's own

stand in the reply to the legal notice dated 09.06.2025 (Annexure P-4), the present writ petition is allowed. The impugned recovery orders (Annexures P-5 to P-7) are quashed being arbitrary and unsustainable.

14. The respondent – Corporation is directed to refund the amount recovered, if any, for the period from 06.02.2023 to 02.01.2025 to the petitioners within a period of three months from the date of receipt of a certified copy of this order, failing which the said amount shall carry interest @ 6% per annum from the date of recovery till its actual realization.

15. The respondent – Corporation shall also ensure that any pending dues in accordance with the lawful pay-scale for the aforementioned period are paid to the petitioners without any delay.

(HARPREET SINGH BRAR)
JUDGE

06.08.2025
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No