



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

CWP-24811-2023

Date of decision: 19.12.2025

Ravinder Mittal

....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL)
and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Abhishek K. Premi, Advocate
for the petitioner.

Mr. Nitin Gupta, Advocate for
Mr. H.S. Gill, Advocate
for respondents No.1 to 3.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari to quash the impugned last pay certificate dated 06.03.2023 (Annexure P-13) and letter dated 27.04.2023 (Annexure P-15) whereby the pay/pension of the petitioner has been re-fixed and reduced without assigning any reason and opportunity of hearing, and the impugned letter dated 22.09.2023 (Annexure P-16) whereby explanation of the petitioner has been called for recovering the amount of ₹4,87,681/- from his pension.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was promoted to the post of Assistant Engineer on 29.07.2009 and was required to pass the Departmental Accounts Examination (DAE). He cleared one paper out of four and upon attaining the age of 50 years, he applied for exemption from passing the DAE as per the notification dated 22.08.2007.



However, the respondents, just before his retirement, issued a show-cause notice dated 07.02.2019 and subsequently reverted him to the post of Junior Engineer vide order dated 19.03.2019. The petitioner challenged the said reversion before this Court in CWP No.8061 of 2019 and vide interim order dated 27.03.2019, the operation of the reversion order was stayed. The petitioner superannuated on 31.03.2019 while holding the post of Assistant Engineer.

3. This Court vide order dated 14.09.2022 in CWP No. 8061 of 2019, disposed of the petition with a direction to the respondents to disburse the retiral benefits for the post of Assistant Engineer which the petitioner was holding at the time of his retirement. In compliance, the respondents issued order dated 12.12.2022 changing the designation of the petitioner from Junior Engineer to Assistant Engineer. However, instead of granting the benefits of the higher post, the respondents issued the impugned letters reducing his pay and pension and calling for explanation for recovery of ₹4,87,681/-.

4. Learned counsel for the petitioner further contends that the impugned action of the respondents is violative of the principles of natural justice as no notice or opportunity of hearing was afforded to the petitioner before reducing his pay and pension. He also submits that the recovery from a retired employee is impermissible in view of the law laid down by the Hon'ble Supreme Court in *State of Punjab v. Rafiq Masih (2015) 4 SCC 334*. He further submits that the petitioner is entitled to the benefit of 1st Assured Career Progression (ACP) on completion of five years of regular service as Assistant Engineer w.e.f. 29.07.2014, which has been wrongly denied.

5. Per contra, learned counsel for the respondents submits that the



petitioner failed to pass the DAE within the stipulated chances and was therefore rightly reverted to the post of Junior Engineer. He further submits that the exemption from DAE for Assistant Engineers crossing 50 years of age was withdrawn vide notification dated 09.08.2012 and therefore, the petitioner was not entitled to any exemption. He also submits that the impugned reduction in pay and pension is on account of correct re-fixation of pay scale after excluding the benefit of 1st ACP, which the petitioner did not earn due to non-passing of DAE.

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

7. The undisputed facts are that the petitioner was promoted as Assistant Engineer on 29.07.2009 and superannuated on 31.03.2019 while holding the said post. This Court, vide order dated 14.09.2022 in CWP No. 8061 of 2019, directed the respondents to disburse the retiral benefits for the post of Assistant Engineer. Pursuant thereto, the respondents changed the designation of the petitioner from Junior Engineer to Assistant Engineer. However, instead of granting him the benefits of the higher post, the respondents reduced his pay and pension and initiated recovery proceedings without any prior notice or opportunity of hearing.

8. The issue of recovery from pension of a retired employee is no longer *res integra*. The Hon'ble Supreme Court in ***Rafiq Masih (supra)*** has categorically held that recovery from retired employees is impermissible. The Hon'ble Apex Court while speaking through Justice Jagdish Singh Khehar, the following was observed:

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have



*mistakenly been made by the employer, in excess of their entitlement. **Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:***

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service)

*(ii) **Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.***

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”

(Emphasis supplied)

9. The petitioner in the first round of litigation approached this court by filing **CWP No.8061 of 2019** wherein the following order was passed,

“The petitioner was working as an Assistant Engineer. He had been protected from reversion by the interim order of this Court which continued till the date of his retirement. It would be unjust and inequitable if the petitioner is asked to clear the departmental accounts examination at this stage.

In view of the above, the petition is disposed of with a direction to the respondents to disburse the retiral benefits for the post of Assistant Engineer which the petitioner was holding at the time of his retirement. Needful be done within a period of four months from the date of receipt of certified copy of this order.”

10. Learned Counsel for the respondent has not been able to controvert the fact that the present petition has attained finality in CWP No.8061 of 2019 as the respondents have not challenged the order passed by this Court in CWP No.8061 of 2019. As such, the matter had already attained finality and the respondents have forced the petitioners to approach the Court again for a settled issue.



11. In light of the above, the present petition is disposed of in terms of the judgment rendered by a Coordinate Bench of this Court in first round of litigation in ***CWP No.8061 of 2019*** dated 14.09.2022. The respondents are directed to release all admissible benefits accrued to the petitioner as an Assistant Engineer. The recovery letter dated 06.03.2023 (Annexure P-13), 27.04.2023 (Annexure P-15) and 22.09.2023 (Annexure P-16) are hereby set aside. The respondents are further directed to release any amount recovered from the petitioner along with an interest @ 6% per annum from the date of recovery till its actual realization.

(HARPREET SINGH BRAR)
JUDGE

19.12.2025

Neha

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