2025:PHHC:131114

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.28454 of 2025 (O&M)
Date of decision: 22.09.2025

Amandeep Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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

Ms. Niharika Sharma, AAG, Punjab.

Mr. Vikas Chatrath, Advocate for respondents No.2 to 9.

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 quashing of recovery initiated by the respondents against the present petitioners vide letter/order bearing memo No.203 dated 23.04.2025, memo No.1072 dated 05.05.2025, memo No.335 dated 10.07.2025 and memo No.2077 dated 09.09.2025, memo No.325 dated 03.07.2025, memo No.158 dated 17.03.2025, memo No.99 dated 17.02.2025 and Office Order No. 20 dated 16.01.2025 (Annexures P-5 to P-7) issued by respondent/Corporation being illegal, arbitrary and against the provision of law and considering the facts and circumstances of the case;
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> (ii) the operation of letter/order bearing memo No.203 dated 23.04.2025, memo No.1072 dated 05.05.2025, memo

No.335 dated 10.07.2025 and memo No.2077 dated 09.09.2025, memo No.325 dated 03.07.2025, memo No.158 dated 17.03.2025, memo No.99 dated 17.02.2025 and Office Order No. 20 dated 16.01.2025 (Annexures P-5 to P-7) issued by respondent/Corporation and recovery proceedings against the petitioners may 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/Corporation from the salary account of the petitioners in view of recovery proceedings initiated by the respondent/Corporation 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 to the petitioners till date alongwith the interest @ 18% p.a. considering the facts and circumstances of the case.

2. The brief facts of the case, as pleaded in the writ petition, are that the petitioners are employees of Punjab State Transmission Corporation Limited (PSTCL), appointed as Lower Division Clerks (LDC)/Typists pursuant to recruitment notification i.e. CRA No.290/2017 dated 20.12.2017. They joined the services with respondent/Corporation in the month of April, 2021 and completed their probation in April, 2024. The respondents, vide order dated 19.01.2022 (Annexure P-2), adopted the pay fixation principles contained in the Punjab Government Finance Department letters dated 11.06.2021 and 18.12.2020 for all the posts advertised on or after 17.07.2020.

Subsequently, vide office order dated 14.03.2022 (Annexure P-3), the pay scales of the petitioners were fixed in accordance with the 7th Central Pay Commission (7th CPC), however, vide Memo No.837/841 dated 16.10.2024 (Annexure P-4), the respondents/Corporation restricted the pay of the petitioners and similarly placed employees to the 5th and 6th Punjab Pay Commission scales, by withdrawing the earlier grant of 7th CPC benefits. Following this, the recovery proceedings were initiated against the petitioners by various departmental memos and orders, without any prior notice or opportunity to be heard. Hence this writ petition.

3. Learned counsel for the petitioners, *inter alia*, contends that the respondents themselves fixed the pay of the petitioners according to the 7th Pay Commission rules and the petitioners just accepted the same without influencing the decision. The petitioners received salaries on the basis of 7th CPC for a long time, but suddenly, the respondents took back those benefits and reduced their pay to the older 5th and 6th Pay Commission scales. Thereafter, the respondents started the recovery proceedings against the petitioners, which is unfair and against the principles of natural justice. The petitioners were never given a chance to explain or defend themselves before the initiation of recovery. Learned counsel for the petitioner further submits that the recovery of excess payments without any misrepresentation or fraud on the part of the employees is impermissible in law as held by the Hon'ble Supreme Court in ***State of Punjab and others v. Rafiq Masih (White Washer)***

(2015) 4 SCC 334. Relying further upon a recent judgment of this Court in ***Sagar Bansal and others v. State of Punjab and others (CWP No.22661 of 2025)***, wherein a similar recovery proceeding has been quashed. He submits that once the benefits of 7th CPC have been granted, according to which salary has been drawn, it cannot be withdrawn retrospectively.

4. Notice of motion.

5. Ms. Niharika Sharma, 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 9.

6. Learned counsel for respondents No.2 to 9 further submits that the petitioners had given an undertaking at the time of their appointment that any excess payment made due to erroneous fixation of pay could be recovered by the Corporation either by adjustment against future payments or otherwise. Therefore, the recovery orders are justified and in accordance with the provisions of law. He further contends that the respondents have duly informed the petitioners about the recovery proceedings, thereby complying with the principles of natural justice, placing reliance on the judgment passed by the Hon'ble Supreme Court in ***"High Court of Punjab & Haryana and others vs Jagdev Singh", 2016(4) SCT 286***.

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

8. Admittedly, the petitioners were appointed against the posts where advertised pay scale was governed by the 7th CPC. The respondents themselves initially implemented the 7th CPC pay scales and revised the basic pay of the petitioners accordingly. The petitioners drew salaries under the 7th CPC pay structure for a significant duration. The subsequent reversion to the 5th and 6th Punjab Pay Commission pay scales and initiation of recovery proceedings by the respondents were done unilaterally and without issuing any show cause notice or giving any opportunity to the petitioners, which violates the principles of natural justice. The respondent – Corporation 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.

9. 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***.

10. The issue involved in the present case is squarely covered by a 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."

11. Further, the reliance placed by learned counsel for respondents No.2 to 9 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 had adopted the 7th Central Pay Commission.

12. In view of the facts pleaded and the legal position discussed hereinabove, the present writ petition is allowed. The

impugned recovery orders (Annexures P-5 to P-7) are quashed being arbitrary and unsustainable.

13. The respondent – Corporation is directed to refund the amount recovered, if any, for the period from 14.03.2022 i.e. the date of fixation of pay under 7th CPC upto the date of this order, 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 an interest @ 6% per annum from the date of recovery till its actual realization. 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

22.09.2025
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No