

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

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CWP-1228-2018

Date of Decision : May 04, 2026

BEENA KUMARI

-PETITIONER

V/S

THE STATE OF PUNJAB AND ORS.

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Vineet Sehgal, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, A.A.G., Punjab.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, the petitioner assails the orders dated 27.04.2017 (Annexure P-5) and 02.05.2017 (Annexure P-9), whereby an amount of ₹2,46,090/-, out of the admissible gratuity, has been withheld by the respondent-department. The challenge is primarily founded on the ground that the impugned orders are vitiated for non-compliance with the principles of natural justice.

2. Drawing attention of this Court to the impugned order (Annexure P-5), learned counsel for the petitioner submits that the genesis of the recovery order lies in Paragraph 3(b) of the audit objections raised by the Audit Department, wherein a query was raised with regard to the regularization of the petitioner, which, in fact, had taken place way back in the year 1982. It is contended that neither has the regularization of the petitioner been declared illegal by any competent authority, nor was any show cause notice issued prior to initiating recovery against the petitioner. It

is further submitted that, in the absence of any adverse order against the petitioner and without affording due opportunity of hearing, no recovery could have been initiated, as has been done vide the impugned orders.

3. What emerges from a perusal of the impugned order (Annexure P-5), relevant portion whereof is extracted hereinafter, is that the authority has proceeded on the premise that recovery is warranted on the ground that the petitioner was regularized contrary to government instructions, and that promotion and annual increments were granted without possessing the requisite qualification.

“Subject: Para 3(b) with regard to recovery of Rs.2,46,090/- due to additional payment being made to Smt. Beena Kumari, Draftsmen due to her regularization against the instructions of the Government and also granting her promotion and yearly increment without the necessary qualification.

Reference: Your Memo No. 1067-1068 administration / 2017 dated 20.01.2017 with regard to above stated subject.

With regard to the above mentioned letter earlier also it has been written to you that the responsibility for effecting recovery is of your department only. Therefore, the instruction/rules as per which the employee has been regularized on 03.06.1982 be presented and the reply of the audit para be given in the enclosed performa. In case the required instructions/rules are not made available the excess recovery be deposited in the treasury and the intimation be sent to this office so that the further step with regard to the pending para can be initiated.”

4. Having regard to the facts and circumstances of the case and after hearing learned counsel for the parties, this Court had passed the following order on 24.03.2026: -

“The petitioner is before this Court against the order dated 27.03.2017 (Annexure P-5), vide which, recovery of Rs.2,46,000/- has been ordered, only on account that she had been regularized

against the instructions issued by the Government, and the promotions and yearly increments were also granted without possessing the necessary qualifications.

It is pertinent to take note of the fact that the petitioner was regularized w.e.f. 25.05.1982, through an order dated 03.06.1982.

Accordingly, this Court has posed a specific query to the learned State counsel, as to whether, the legality of the order, vide which, the petitioner had been regularized, was considered by the authorities, and any show cause notice or opportunity of hearing was granted to her, before passing the impugned order(s).

In response, he submits that since the written statement is silent in this regard, he may be granted a short accommodation to file an additional affidavit to satisfy the Court.

The asked for request is accepted.

Adjourned to 16.04.2026.

To be shown in the urgent list.

The affidavit (supra), shall be filed three days prior to the next date of hearing, with a copy in advance to the learned counsel for the petitioner.”

5. In compliance with the aforesaid order, learned State counsel has filed reply dated 27.04.2026 by way of short affidavit of Mr. Jatinder Pal Singh, Chief Engineer/Headquarters, Department of Water Resources, Punjab, which is taken on record.

6. While seeking to justify the impugned orders, learned State counsel places reliance upon letter dated 29.05.2007, appended with the reply. However, the same does not advance the cause of the respondent-department as it pertains to Vigilance Inquiry No.13/2005 and does not constitute a show cause notice. Moreover, this Court specifically enquired about the outcome of the said vigilance inquiry, whereupon learned State counsel, on instructions from Mr. Mandeep Kumar, Superintendent, informed that the same has already been filed.

7. Learned State counsel is unable to demonstrate from the reply dated 27.04.2026 that any show cause notice was issued or any opportunity of hearing was afforded to the petitioner prior to ordering recovery.

8. In view of the above, this Court finds that the impugned orders are unsustainable in law, having been passed in clear violation of the principles of natural justice. Accordingly, **the impugned orders are set aside**. However, it shall be open to the respondent-department, if so advised, to initiate fresh proceedings in accordance with law for recovery, strictly after issuing due notice and affording due opportunity of hearing to the petitioner.

9. **The writ petition stands disposed of accordingly.**

May 04, 2026
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No