
(2011) 12 SHI CK 0352
In the High Court Of Himachal Pradesh
Case No : CWPT No. 14345 of 2008

Kehar Singh

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 09-12-2011

Acts Referred:

Citation : (2011) 12 SHI CK 0352

Hon'ble Judges : Surjit Singh, J

Bench : Single Bench

Judgement

Surjit Singh

1. Heard and gone through the record.
2. Petitioner served as Craft Teacher in Education Department from 1968 to July, 2003. In September 1976, he underwent family planning operation, as a result of which one advance increment was sanctioned to him. Pay-scales were revised from 01.01.1978 and the pay of Craft Teachers was revised. Petitioner was granted an extra increment while fixing his pay in the revised pay-scale, on account of his having undergone family planning operation. Pay revision took place again from 01.01.1986 and the petitioner this time was also given one increment over and above the basic pay, fixed in the revised pay-scale. Another revision of pay-scale took place from 01.01.1996. This time petitioner was not given any increment over and above his basic pay. When petitioner retired in 2003, recovery was effected from his salary, on account of payment of extra increment over and above his basic pay from 01.07.1978 to 31.12.1995. He felt aggrieved by this order of recovery and filed an Original Application before the erstwhile H.P. State Administrative Tribunal. On abolition of the said Tribunal, matter has come to this Court and registered as the present petition.
3. Respondents, in their reply, have stated that in the year 1976, when the petitioner underwent family planning operation, he was granted an advance increment, amount of which was required to be merged with the basic pay and

accordingly a sum of Rs. 7/-, equivalent to the amount of one increment, was added to the basic pay of the petitioner w.e.f. 01.09.1976. It is stated that he had wrongly been granted special increment, treated as personal pay, under the instructions issued by the Government, vide letter No. Fin (C) A(3)-6/80 dated 08.12.1981, copy Annexure R-II and when this error was pointed out by the audit people, recovery was effected from the money payable to the petitioner at the time of his retirement.

4. Learned counsel, representing the petitioner, submits that petitioner played no role in erroneous grant of an increment to him and treatment of that amount as personal pay and, therefore, recovery was not justified. Submission is based on the law laid down by the Hon''ble Supreme Court in Syed Abdul Qadir and Others Vs. State of Bihar and Others, Hence, the same is accepted. Consequently, present petition is allowed to the extent that recovery effected from the petitioner, on account of over payment of special increment, treated as personal pay, is set aside and the amount recovered from the petitioner is ordered to be refunded to him, within two months.

Petition stands disposed of.