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**(2016) 07 P&H CK 0254**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : CWP No. 19594 of 2012 (O/M)**

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| Manjinder Kaur  | Vs | APPELLANT  |
| State of Punjab |    | RESPONDENT |

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**Date of Decision :** 28-07-2016

**Acts Referred:**

Constitution of India, 1950 — Article 14

**Citation :** (2016) 4 SCT 552

**Hon'ble Judges :** Kuldeep Singh, J.

**Bench :** Single Bench

**Advocate :** Talwinder Singh for Hemant Saini, Advocates, for the Petitioner; R.S. Pathania, Deputy A.G. Punjab, for the Respondents; Ms. Madhu Dayal, Advocate, for the Respondent No. 5

**Final Decision :** Dismissed

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## Judgement

Kuldeep Singh, J. (Oral)&mdash;Mohinder Pal Singh, husband of the petitioner, was a Constable in the Punjab Police in the office of the Senior Superintendent of Police, Amritsar. He died in harness on 12.11.1995. Accordingly, the petitioner was granted family pension. Later on, the petitioner was appointed on compassionate ground as a Constable on 10.4.1997. It is stated that later on, the respondents claimed that the dearness allowance to the petitioner on the family pension was wrongly paid from the date she was appointed as a Constable on 10.4.1997 and accordingly, made the recovery amounting to Rs. 39,366/- upto October, 2007. The prayer made in the writ petition is for directing the respondents to refund the said amount. The present writ petition was filed in the year 2012.

2. On behalf of respondent No. 5-Bank, it is stated that during the audit by the office of Auditor General, an audit objection was raised and accordingly the recovery was effected. The present petition was filed after five years. It is stated that the petitioner did not disclose the fact of getting her appointment on compassionate ground in the same department with effect from 10.4.1997.

3. Respondents No. 2 to 4 have also not disputed the factual position. It was stated that in case, no mis-representation or fraud has been made by family pensioners, who are receiving dearness relief on family pension, the same be stopped with immediate effect, but the recovery of amount already paid to them, cannot be effected.

4. I have heard the learned proxy counsel appearing for the learned counsel for the petitioner, the learned State counsel, the learned counsel for respondent No. 5-Bank and have also carefully gone through the file.

5. It comes out that in this case, on account of death of her husband, the petitioner was allowed family pension, on which dearness allowance was also paid. As per the Government instructions, in case of appointment on compassionate ground, the payment of dearness allowance will stop from the date of appointment. The petitioner was appointed on compassionate ground as a Constable in the Punjab Police on 10.4.1997. Therefore, the dearness allowance paid on the family pension would have stopped from the said date. However, the petitioner herself did not make any prayer for stopping the dearness allowance neither to the police department nor to the bank or to the treasury and dearness allowance was continuously paid on the family pension. When an audit objection was raised on payment of dearness allowance on the family pension, the recovery from the salary of the petitioner was effected upto year 2007. At the very outset, it is to be noticed that in the present case, the present petition was filed after five years. Therefore, the present writ petition is liable to be dismissed on the sole ground of laches. Otherwise also, once the recovery is made and it is not made illegally, this Court will refrain itself from ordering the refund of said recovery.

6. The present writ petition is accordingly dismissed.