

(2014) 05 P&H CK 0329

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 19305 of 2010 (O&M)

Sukhwinder Kaur

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 12-05-2014

Acts Referred:

Citation : (2014) 175 PLR 349

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : Amit Jhanji and Saurabh Arora, Advocate for the Appellant; Monica Chhibber Sharma, Dy. Advocate General, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Rajesh Bindal, J.—This order will dispose of C.W.P. Nos. 19305 of 2010 and 7895 of 2012, as the issue raised therein is common. However, the facts have been extracted from C.W.P. No. 19305 of 2010. The petitioners, who are working/retired as teachers in different schools, have filed the present petitions impugning the orders vide which the recovery of the house rent allowance allegedly excess paid earlier is sought to be made.

2. Learned counsel for the petitioners submitted that the recovery is sought to be made, without issuing even any show cause notice. Still further it was submitted that in the process of payment of amount in question, the petitioners did not mislead any authority, hence, it is harsh on the petitioners to ask them to pay the amount, in some cases after the petitioners had retired, whereas in some cases during their service but after long duration. In support of the plea, reliance has been placed upon judgment of this Court in Budh Ram and others v. State of Haryana and others, 2009(3) S.C.T. 333 and of Hon'ble the Supreme Court in Chandi Prasad Uniyal and Others Vs. State of Uttarakhand and Others, However, learned counsel for the petitioners fairly submitted that the amount which was paid to the petitioners was not payable in terms of the instructions issued by the Government, rather it was a wrong payment.

3. On the other hand, learned counsel for the State submitted that no doubt, show cause notice was not issued to the petitioners, however, the fact remains that it is not in dispute that the amount which was paid to the petitioners was not due to them. There was some error in payment. Referring to the judgment of Hon"ble the Supreme Court in SLP (C) No. 17881 of 2008 ? U.T. Chandigarh and others v. Gurcharan Singh and another, decided on 1.11.2013, the submission is that it is a question of accounting. Once later on it was found that something was wrongly paid to the petitioners, as a matter of settlement of accounts, the amount can very well be recovered. The employees also come to the Court later on seeking the relief that some benefits due to them at any earlier point of time was not paid. It is the question of balancing the equities, hence, no case for interference is made out.

4. Heard learned counsel for the parties and perused the paper book.

5. No doubt, no show cause notice was issued to the petitioners before directing recovery of the alleged excess paid house rent allowance from them. However, the fact remains that admittedly the amount was not payable in terms of the instructions issued by the Government. Meaning thereby it was excess paid. The question as to whether under these circumstances the amount can be recovered from the petitioners or not has been gone into by Hon"ble the Supreme Court in a recent case in Gurcharan Singh's case (supra), wherein it was opined as under:

"12. Though a submission had been made on behalf of the respondent that no amount should be recovered from the salary paid to the respondent, the said submission cannot be accepted because if any amount had been paid due to mistake, the mistake must be rectified and the amount so paid in pursuance of the mistake must be recovered. It might also happen that the employer might have to pay some amount to the respondent as a result of some mistake and in such an event, even the appellant might have to pay to the respondent. Be that as it may, upon settlement of the account, whatever amount has to be paid to the respondent employee or to the appellant employer shall be paid and the account shall be adjusted accordingly."

(emphasis supplied)

6. The petitioners in the present case are not low paid employees. They are either working or retired teachers, who are paid reasonably. For the reasons mentioned above, I do not find any merit in the present petitions. Accordingly, the same are dismissed. However, it would be appropriate if the recovery of the amount sought to be made from the petitioners is made in installments.