IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11954-2022 (O&M)
Reserved on: 20.11.2025
Pronounced on: 19.01.2026
Uploaded on: 19.01.2026

PARAMJIT KAUR **-PETITIONER**

V/S

ACCOUNTANT GENERAL AND ORS. **-RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Dushyant Saharan, Advocate
for the petitioner.

Mr. Vikas Chatrath, Sr. Advocate, with
Mr. Abhishek Sharma, Advocate
for the respondents No.2 and 3.

Ms. Hemani Sarin, Advocate
for the respondent No.4.

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KULDEEP TIWARI, J.

1. Through instituting the present writ petition, the petitioner impugns the demand notice dated 12.04.2021 (Annexure P-2), whereby the respondent No.2- State Bank of India (hereinafter referred to as the "S.B.I."), being the pension disbursing authority, has sought to recover the excess payment of family pension from the petitioner.

2. Assailing the impugned demand notice, the principal contention advanced by learned counsel for the petitioner is that there was neither any misrepresentation, fraud, deception, nor concealment of material facts on the part of the petitioner. It is submitted that the

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petitioner had no role whatsoever in the fixation or calculation of the family pension payable to her. The excess payment, if any, was solely on account of an error committed by the S.B.I. and, therefore, recovery of such excess amount is impermissible in law, particularly when tested on the anvil of equity.

3. Learned counsel for the petitioner further submits that the petitioner is solely dependent upon the meagre family pension for her sustenance and has no other source of income to survive in the twilight years of her life, especially while grappling with multiple age-related ailments. To lend vigour to his arguments, learned counsel places reliance upon the verdict rendered by the Hon'ble Supreme Court in ***"State of Punjab and Others Vs. Rafiq Masih (White Washer) and Others", (2015) 4 SCC 334.***

4. Conversely, learned counsel for the S.B.I. submits that the verdict rendered in ***Rafiq Masih's*** case (*supra*) does not come to the rescue of the petitioner, inasmuch as the petitioner had furnished an undertaking authorizing the S.B.I. to recover any excess amount credited to her account. A copy of the undertaking dated 24.03.2005 has been annexed as Annexure R-2/1.

5. Placing reliance upon the judgment of the Hon'ble Supreme Court in ***"High Court of Punjab and Haryana and Others Vs. Jagdev Singh", 2016 (4) SCT 286 SC***, learned counsel for the S.B.I. contends that the petitioner was clearly placed on notice that any payment found to have been made in excess is required to be refunded. It is further argued

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that the petitioner has not challenged the P.P.O. dated 23.06.1999 (Annexure P-1), which explicitly sets out the manner of fixation of pension and family pension.

6. Continuing his submissions, learned counsel for the S.B.I. asserts that there exists no employer-employee relationship between the S.B.I. and the petitioner, rather, the petitioner is merely a customer of the S.B.I. Consequently, any excess pension paid is liable to be refunded by the petitioner. In support of his arguments, he lays much emphasis on the verdict rendered by this Court in ***LPA No.874 of 2014***, titled as ***"Balbir Singh Vs. State of Haryana and Others"***, wherein the action of the bank in ordering/initiating recovery on account of excess amount having been paid has been upheld.

7. Before embarking upon the process of gauging the validity of the impugned demand notice, and penning down a verdict upon the present writ petition, it is deemed apt to initially capture a concise and compendious factual backdrop of the case.

8. The husband of the petitioner, late Mr. Kesar Singh, was serving as Special Secretary of this Court and took voluntary retirement w.e.f. 04.05.1999. Upon his retirement, his pension was fixed at ₹5,969/- per month w.e.f. 05.05.1999 vide P.P.O. No. 708559902793 dated 23.06.1999 (Annexure P-1). The P.P.O. stipulated that in the event of death of the retiree, family pension of ₹5969/- per month may be paid to Paramjit Kaur (petitioner/spouse of the retiree) from the day following the date of death till the expiry of 7 years or the completion of 65 years of

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age, had the retiree survived, whichever is earlier, and thereafter at the reduced rate of ₹4752/- per month. The S.B.I., being the designated pension disbursing authority, was responsible for disbursement of pension/family pension. Although the petitioner was entitled to enhanced family pension only from 04.03.2005 to 17.01.2010, she continued to receive family pension at the enhanced rate from 18.01.2010 till 28.02.2021, resulting in excess payment amounting to ₹8,03,840/-.

9. Upon detecting the excess payment, the S.B.I. issued the impugned demand notice seeking recovery of the excess pension amount and also afforded the petitioner an opportunity of personal hearing. Instead of availing the said opportunity, the petitioner approached this Court by filing the present writ petition. Prior to the grant of interim stay qua recovery by this Court on 30.05.2022, the S.B.I. had already recovered an amount of ₹1,52,010/- from the petitioner, details whereof, as mentioned in the reply dated 13.12.2022, are extracted hereunder:-

Total recovery	₹ 8,03,840/-
Recovery effected w.e.f. April, 2021 to Feb., 2022 (₹10,587 x 11) March, 2022 to May, 2022 (₹11,851 x 3)	₹ 1,52,010/-
Recoverable amount	₹ 6,51,830/-

10. The core issue that arises for consideration is ***"whether, in the presence of the specific undertaking (Annexure R-2/1) and the express terms of the P.P.O. (Annexure P-1), the impugned demand notice is legally sustainable"***.

11. A bare perusal of the P.P.O. (Annexure P-1) makes it

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abundantly clear that the petitioner was entitled to enhanced family pension of ₹5,969/- per month only from 04.03.2005 to 17.01.2010, and thereafter, to family pension at the reduced rate of ₹4,752/- per month w.e.f. 18.01.2010. Admittedly, the petitioner continued to receive family pension at the enhanced rate until 28.02.2021. There is no wrangle to the fact that there was no misrepresentation, fraud, concealment of any material information on the part of the petitioner, rather it was solely on account of an error on the part of the S.B.I., which resulted in the petitioner enjoying family pension at enhanced rate of ₹5969/- instead of the reduced rate of ₹4752/-.

12. In the above factual scenario, it is deemed imperative to advert to some significant judicial pronouncements governing recovery of excess payments. The Hon'ble Supreme Court has, in a catena of judgments, restrained employer from recovering excess amount paid to employee by applying a wrong principle for calculating the pay/allowances or on the basis of particular interpretation of rule/order, which is subsequently found to be erroneous, by applying the principle of equity. Moreover, it has been specifically held that though an employee does not have any right, the employer was, in equity, restrained to recover the amount.

13. In ***"Col. B.J. Akkara (Retd.) Vs. Government of India and Others", (2006) 11 SCC 709,*** the Hon'ble Supreme Court has delineated the principles governing relief against recovery of excess wrong payment from an employee. It has been held that such restraint is not founded upon

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any vested right of the employee but is rooted in equity and judicial discretion to relieve the employees from the hardship that will be caused if recovery is implemented. It has been further held that a government servant, particularly one in the lower rungs of service, would spend whatever emoluments he receives for the upkeep of his family. If he receives an excess payment for a long period, he would spend it, genuinely believing that he is entitled to it. The relevant observations are extracted hereunder:-

> *"27. The last question to be considered is whether relief should be granted against the recovery of the excess payments made on account of the wrong interpretation/understanding of the circular dated 7.6.1999. This Court has consistently granted relief against recovery of excess wrong payment of emoluments/allowances from an employee, if the following conditions are fulfilled [Vide Sahib Ram vs. State of Haryana [1995 Suppl.1 SCC 18], Shyam Babu Verma vs. Union of India [1994 (2) SCC 521], Union of India vs. M. Bhaskar [1996 (4) SCC 416], and V. Gangaram vs. Regional Joint Director [AIR 1997 SC 2776] :*
>
> > *a) The excess payment was not made on account of any misrepresentation or fraud on the part of the employee.*
> >
> > *b) Such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order, which is subsequently found to be erroneous.*
>
> *28. Such relief, restraining recovery back of excess payment, is granted by courts not because of any right in the employees, but in equity, in exercise of judicial discretion, to relieve the employees, from the hardship that will be caused if recovery is implemented. A Government servant, particularly one in the lower rungs of service would spend whatever emoluments he*

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> *receives for the upkeep of his family. If he receives an excess payment for a long period, he would spend it genuinely believing that he is entitled to it. As any subsequent action to recover the excess payment will cause undue hardship to him, relief is granted in that behalf. But where the employee had knowledge that the payment received was in excess of what was due or wrongly paid, or where the error is detected or corrected within a short time of wrong payment, Courts will not grant relief against recovery. The matter being in the realm of judicial discretion, courts may on the facts and circumstances of any particular case refuse to grant such relief against recovery.*
>
> *29. On the same principle, pensioners can also seek a direction that wrong payments should not be recovered, as pensioners are in a more disadvantageous position when compared to in-service employees. Any attempt to recover excess wrong payment would cause undue hardship to them. The petitioners are not guilty of any misrepresentation or fraud in regard to the excess payment. NPA was added to minimum pay, for purposes of stepping up, due to a wrong understanding by the implementing departments. We are therefore of the view that Respondents shall not recover any excess payments made towards pension in pursuance of circular dated 7.6.1999 till the issue of the clarificatory circular dated 11.9.2001. In so far as any excess payment made after the circular dated 11.9.2001, obviously the Union of India will be entitled to recover the excess as the validity of the said circular has been upheld and as pensioners have been put on notice in regard to the wrong calculations earlier made."*

14. Similarly, in ***Rafiq Masih's*** case (*supra*), the Hon'ble Supreme Court has carved out specific categories of cases where recovery would result in grave hardship and would thus be impermissible. The relevant paragraph is extracted hereinafter:-

> *"18. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where*

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> *payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:*
>
> *(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).*
>
> *(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.*
>
> *(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
>
> *(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*
>
> *(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."*

15. In ***Jagdev Singh's*** case (supra), the Supreme Court has diluted its earlier stand and held that where the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded, in that eventuality, the principle enunciated in proposition (ii) of the hereinabove extracted paragraph 18 of ***Rafiq Masih's*** case would not apply. The relevant observations embodied in Jagdev Singh's case read as under:-

> *"10. In* ***State of Punjab & Ors etc. vs. Rafiq Masih (White Washer) etc****. this Court held that while it is not possible to postulate all situations of hardship where payments have*

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mistakenly been made by an employer, in the following situations, a recovery by the employer would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover." (emphasis supplied).

11. The principle enunciated in proposition (ii) above cannot apply to a situation such as in the present case. In the present case, the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. The officer furnished an undertaking while opting for the revised pay scale. He is bound by the undertaking."

16. The Division Bench of this Court in ***Balbir Singh's*** case (supra) has held that excess payment made to a retired employee due to clerical error is recoverable even after retirement by applying the doctrine of unjust enrichment. The apposite paragraphs embodying such observations are reproduced hereunder:-

"6. The appellant is not challenging the fixation of his pension. He also does not dispute that after re-fixation of his pension by

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> *the authorities, less payment was to be made, but due to inadvertent clerical error on the part of the bank authorities, excess amount was credited in his pension account, which he was not entitled to. In these circumstances, notice was issued to the appellant to refund the excess payment received by him. In our opinion, the said excess payment, which was made to the appellant due to clerical error on the part of the bank, is duly recoverable. The aforesaid judgments, relied upon by learned counsel for the appellant, are not applicable in the wake of the situation as sketched out above. The principle laid down in these judgments is that where the Government consciously makes excess payment to an employee considering that it was validly being given to him, but later on it is found that such employee was not actually entitled to receive the said amount, in that situation, if the excess payment was made under bonafide act of the State, and without any misrepresentation or fraud by the employee, recovery of such excess payment cannot be effected from the employee after his retirement. This principle enunciated in the aforesaid judgments does not apply to the facts of the present case. Here, due to clerical error on the part of the bank, excess amount was credited in the pension account of the appellant, for which he was not entitled to either at that time or subsequently. Therefore, such amount has to be refunded by the appellant to the authorities, which has been received by him in excess. The principle of unjust enrichment will be applicable in the present case and when the appellant is approaching this Court under Article 226 of the Constitution of India, he cannot be granted an inequitable benefit, by relying upon the aforesaid judgments. The necessary relief has already been granted to the appellant by the learned Single Judge, which in our opinion is more than the relief, which he deserves. We do not find any illegality in the order passed by the learned Single Judge."*

17. The ratio laid down in ***Balbir Singh's*** case (*supra*) has been consistently followed by Co-ordinate Benches of this Court in

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"Surinderjit Singh Vs. State of Punjab and Others", CWP-8511-2020; "Makhan Singh Vs. State of Punjab and Others", CWP-18161-2021; "Parkash Singh Vs. State Bank of India", CWP-18089-2019; and ***"Shinderpal Kaur Vs. State of Punjab and Others", CWP-19783-2014.***

18. In the case at hand, the petitioner is the widow of the retiree Kesar Singh, who took voluntary retirement w.e.f. 04.05.1999 and was issued the P.P.O. (Annexure P-1), containing a clear stipulation regarding his entitlement to pension and the entitlement of his spouse/petitioner to family pension in the event of his death. As per the P.P.O. (Annexure P-1), the petitioner ought to have been disbursed family pension at the reduced rate of ₹4,752/- instead of the enhanced rate of ₹5,969/- w.e.f. 18.01.2010. However, the S.B.I. continued to disburse family pension at the enhanced rate, which it now seeks to recover from the petitioner. Although there is no dispute regarding the legal entitlement of the S.B.I. to recover the excess pension amount paid, in view of the undertaking (Annexure R-2/1) furnished by the petitioner, this Court is nevertheless required to assess the hardship that the petitioner would face if such recovery is permitted to be effected.

19. In ***"Thomas Daniel Vs. State of Kerala and Others", Civil Appeal No.7115 of 2010, Decided on: 02.05.2022***, the Hon'ble Supreme Court has examined a similar issue at length and following the principles laid down in ***Rafiq Masih's*** case (*supra*) and also by applying the principle of equity, restrained the employer from recovering any amount.

20. One of the situations of hardship, as recognized in ***Rafiq***

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Masih's case (*supra*) and extracted hereinabove, which would govern employees on the issue of recovery, is that in any other case, where the Court arrives at the conclusion that recovery, if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

21. It is undisputed that no employer–employee relationship exists between the S.B.I. and the petitioner, and that the S.B.I. acts merely as a disbursing agent. It is also not in dispute that the disbursal of family pension at the enhanced rate was the result of a mistake on the part of the S.B.I., which remained undetected for over a decade. Hence, seeking recovery from a widow, who is in the twilight years of her life and is solely dependent upon the meagre family pension, would be manifestly harsh and inequitable. The recovery of ₹10,587/- per month, as already effected by the S.B.I. w.e.f. April, 2021 to February, 2022, and thereafter ₹11,851/- per month w.e.f. March, 2022 to May, 2022, from the family pension paid to the petitioner, would leave her with a very meagre amount or virtually no amount at all for her sustenance in the dusk of her life, especially when she has no other source of income. This Court is of the view that, if recovery is permitted to be effected from the petitioner, it would certainly cause hardship of such magnitude as would far outweigh the equitable balance of the S.B.I.'s right to recover.

22. As regards the undertaking (Annexure R-2/1), which constitutes the fulcrum of arguments advanced by the S.B.I. to establish its right to initiate recovery from the petitioner, a Division Bench of this

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Court in ***"The Chief Postmaster General, Haryana Circle, Ambala and Others Vs. Kavita Devi and Another", CWP-1656-2025***, has held that such undertakings obtained on dotted lines from retirees or their family members, authorizing the employer to deduct any amount outstanding against the employee from pension, amount to exploitation and cannot, by themselves, justify recovery. The decision rendered in ***Jagdev Singh's*** case (supra) was also taken into consideration by the Division Bench while laying down such principle. The relevant paragraph of the verdict rendered in Chief Postmaster General's case is extracted hereinafter:-

> *"5. We, therefore, have carefully noticed the document placed before relating to the consent statement of the respondent No.1 and find that the respondent No.1 has signed on the dotted lines authorizing the Postal Department to deduct any amount outstanding against her from pension or DCRG. The lady is the widow of the deceased Government servant and asking her to sign on the consent statement is nothing but a clear case of exploitation. Moreover, we don't find that it is a case of outstanding amounts against the deceased Government servant and it is only a case where the payments were made by the authorities without there being any fault on his part. The contentions of the learned counsel for the petitioners, therefore, need not be addressed again here and we, therefore uphold the impugned order passed by the Central Administrative Tribunal."*

23. Applying the principles enunciated in ***Rafiq Masih*** and ***Chief Postmaster General's*** case (supra), this Court finds no merit in the submissions advanced on behalf of the S.B.I. Accordingly, the present writ petition is **allowed**, and the impugned demand notice is set aside to the extent of the remaining outstanding recovery. It is clarified that the

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petitioner shall henceforth be entitled only to the family pension strictly in accordance with the P.P.O. (Annexure P-1).

24. Pending application, if any, stands disposed of accordingly.

(KULDEEP TIWARI)
JUDGE

January 19, 2026
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No

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