

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No.5525 of 2005

DATE OF DECISION : MAY 20, 2011

NATHU SINGH & ORS.

..... PETITIONER(S)

VERSUS

STATE OF PUNJAB & ORS.

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE AJAI LAMBA

PRESENT: None for the petitioner(s).
Mr. A.K. Sharma, Addl.AG, Punjab.

AJAI LAMBA, J. (Oral)

1 This judgment shall dispose of three writ petitions viz. Civil Writ Petition No.5525 of 2005 (Nathu Singh and others v. State of Punjab and others), Civil Writ Petition No.5532 of 2005 (Gurtej Singh and others v. State of Punjab and others) and Civil Writ Petition No.8256 of 2005 (Nachhatar Singh and others v. State of Punjab and others), as common questions of law and facts are involved.

2 For reference to facts, record of Civil Writ Petition No.5525 of 2005 (Nathu Singh and others v. State of Punjab and others) is being taken up.

3 This Civil Writ Petition has been filed under Articles 226 and 227 of the Constitution of India praying for issuance of a writ in the nature of certiorari quashing letter dated 8.2.2005

(Annexure P-1). Vide letter (Annexure P-1), it has been said that as per Audit Note, ₹ 19.56 lacs are to be recovered from different teachers working under Block Primary Education Officer, District Muktsar. The impugned letter further states that it has been decided that balance recovery should be effected from the employees.

4 It seems that on apprehension that recovery would be effected from the petitioners, in consequence of issuance of the impugned letter, the petition has been filed by 15 petitioners, who were working as JBT teachers under District Education Officer (Elementary Education), Muktsar.

5 It has been pleaded that in case there is no misrepresentation in getting benefit of higher pay scale, recovery cannot be effected.

6 Learned counsel for the respondent-State, in view of the written statement filed on behalf of the respondents, contends that recovery is to be effected from the petitioners in view of re-fixation of pay. It has been pleaded that on inspection of service books by the audit authorities, it was found that pay of the petitioners had not been fixed according to the instructions issued by the department.

7 It has not been suggested in the reply that the petitioners played fraud or misrepresented facts so as to draw monetary benefits from the official respondents. In such circumstances, learned counsel for the respondent-State has not been able to dispute that the issue would be covered by judgment of Full Bench of this Court rendered in Budh Ram and

others v. State of Haryana and others, 2009(3) PLR 511, wherein the following has been held:-

“It is in the light of the above pronouncement, no longer open to the authorities granting the benefits, no matter erroneously, to contend that even when the employee concerned was not at fault and was not in any way responsible for the mistake committed by the authorities, they are entitled to recover the benefit that has been received by the employee on the basis of any such erroneous grant. We say so primarily because if the employee is not responsible for the erroneous grant of benefit to him/her, it would induce in him the belief that the same was indeed due and payable. Acting on that belief the employee would, as any other person placed in his position arrange his affairs accordingly which he may not have done if he had known that the benefit being granted to him is likely to be withdrawn at any subsequent point of time on what may be then said to be the correct interpretation and application of rules. Having induced that belief in the employee and made him change his position and arrange his affairs in a manner that he would not otherwise have done, it would be unfair, inequitable and harsh for the Government to direct recovery of the excess amount simply because on a true and correct interpretation of the rules, such a benefit was not due. It does not require much imagination to say that additional monetary benefits going to an employee may not always result in accumulation of his resources and savings. Such a benefit may often be utilized on smaller luxuries of life which the employee and his family may not have been able to afford had the benefit not been extended to him. The employees can well argue that if it was known to them that the additional benefit is only temporary and would be recovered back from them, they would not have committed themselves to any additional expenditure in their daily affairs and would have cut their coat according to their cloth. We have, therefore, no hesitation in holding that in case the employees who are recipient of the benefits extended to them on an erroneous interpretation or application of any rule, regulation, circular and instructions have not in any way contributed to such erroneous interpretation nor have they committed any fraud, misrepresentation, deception to obtain the grant of such benefit, the benefit so extended may be stopped for the future, but the amount already paid to the employees cannot be recovered from them.”

8 The petitions are, accordingly, allowed.

9 It is held that the respondents would not have a right to effect recovery of the monetary benefits already released to the petitioners. In case, any recovery has been effected, the same be refunded to the petitioners within four months of receipt of certified copy of the order.

May 20, 2011
Kang

(AJAI LAMBA)
JUDGE

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?