

**CWP No. 3316 of 2024 and
other connected cases**

2025:PHHC:062724



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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 271)**

(1)

**CWP No. 3316 of 2024
Date of Decision : 12.05.2025**

Mohinder Kumar Garg

...Petitioner

Versus

State of Punjab and others

...Respondents

(2)

CWP No. 4165 of 2024

Mohinder Pal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

(3)

CWP No. 4183 of 2024

Prem Singh Bharee

...Petitioner

Versus

State of Punjab and others

...Respondents

(4)

CWP No. 4217 of 2024

Vinod Kumar Dewan

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sarthak Gupta, Advocate for the petitioner(s)



in all the petitions.

Mr. Himanshu Raj, Additional Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. In the present bunch of four petitions, the details of which have been given in the heading, the grievance being raised by the petitioner(s) is that though the benefit of step up of pay was granted to the petitioner(s) but vide impugned orders, the salary of the petitioner(s) has been re-fixed so as to withdraw the benefit of ACP on the ground that the benefit of ACP cannot be made admissible upon step up of the pay.

2. Learned counsel for the petitioner(s) submits that once the benefit of step up of pay is to be granted, the same has to be granted keeping in view the salary being drawn by the juniors hence, the benefit of ACP should also be included and was rightly included and, therefore, withdrawal of the said benefit so as to re-fix the salary of the petitioner(s) is incorrect.

3. Learned counsel for the respondent-State submits that the similar issue as raised in the present petitions was raised in CWP No. 10694 of 2022 titled as ***Daljit Singh Vs. State of Punjab and others***, decided on 17.02.2023 and other connected cases and the Co-ordinate Bench of this Court upheld the decision of withdrawal of the ACP benefit so as to re-fix the salary of the petitioners therein hence, the present petitions are covered by the decision of the Co-ordinate Bench of this Court in ***Daljit Singh's case (supra)*** and the same may kindly be dismissed.



4. Learned counsel for the petitioner(s) has not been able to rebut the fact that the benefit sought to be withdrawn from the petitioner(s), was also the subject matter in ***Daljit Singh's case (supra)***, which claim has been rejected by the Co-ordinate Bench but submits that LPA No. 635 of 2023 and other connected LPAs have been filed, which have been admitted and the recovery has been stayed.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. It is a conceded fact that the issue raised in the present bunch of petitions has already been decided by the Co-ordinate Bench while passing order in ***Daljit Singh's case (supra)***. Now, the only question which arises is whether, the benefit which was already paid after re-fixing of salary of the petitioner(s), excess amount, if any, can be recovered or not.

7. The Hon'ble Supreme Court of India in ***Civil Appeal No.7115 of 2010 titled as Thomas Daniel versus State of Kerala and others, decided on 02.05.2022***, has held that if there is no misrepresentation on the part of the employee, any excess amount paid, cannot be recovered. The relevant paragraph of the said judgment is as under:-

“(9) This Court in a catena of decisions has consistently held that if the excess amount was not paid on account of any misrepresentation or fraud of the employee or if 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, such excess payment of emoluments or allowances are not recoverable. This relief against the recovery



is granted not because of any right of the employees but in equity, exercising judicial discretion to provide relief to the employees from the hardship that will be caused if the recovery is ordered. This Court has further held that if in a given case, it is proved that an employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, the courts may on the facts and circumstances of any particular case order for recovery of amount paid in excess.”

8. In the present case, the respondents themselves granted the benefit of step up along with the benefit of ACP, which benefit of ACP is now being withdrawn hence, any excess amount paid to the petitioner(s) was not due to any misrepresentation on the part of the petitioner(s) hence, the judgment in *Thomas Daniel's case (supra)*, will be applicable and no excess amount paid to the petitioner(s) will be recovered from them.

9. All the petitions are dismissed with the direction that no recovery of the excess amount paid to petitioner(s) will be effected by the respondents upon re-fixation of pay.

10. Pending miscellaneous application, if any, also stands disposed of.

11. A photocopy of this order be placed on the file of connected cases.

May 12, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No