Before Harpreet Singh Brar, J.

ANURADHA—*Petitioner*

versus

PUNJAB STATE POWER CORPORATION LIMITED AND OTHERS—*Respondents*

CWP No. 22476 of 2024

April 27, 2026

Constitution of India, 1950—Arts. 226, 227—Punjab State Cooperative Societies Act, 1961—S. 39—Petition filed by widow of deceased employee assailing actions of Respondents of effecting recovery of personal loan raised by her husband while in service from the family pension.

Whether deduction from salary and wages of an employee made pursuant to an agreement with the cooperative society can be extended to authorize recovery from the family pension payable to his heirs?

Section 39 of the 1961 Act authorizes deduction from salary and wages of an employee pursuant to an agreement executed in favour of a cooperative society.

Recovery was erroneously effected from the family pension by invoking Section 39 of the 1961 Act, which is confined to deductions from salary. Inordinate and unexplained delay of 29 years in seeking recovery without initiating legal proceedings during the lifetime of the employee, renders the claim stale and legally unsustainable. Petition allowed.

Held, that this Court is of the considered view that the impugned recovery has been effected by erroneously invoking Section 39 of the Act, which is confined only to deductions from salary. Furthermore, the inordinate and unexplained delay of nearly 29 years in seeking recovery of the alleged loan, without initiating any legal proceedings during the lifetime of the employee, renders the claim stale and legally unsustainable. Such belated action cannot be permitted to prejudice the rights of the petitioner, who is a family pensioner.

(Para 8)

Virinder K. Shukla with Ashish Gupta, Advocates, *for the petitioner*.

Satyam Tandon, Advocate with Akshay Verma, Advocate for respondents No.1 to 3.

Simranjeet Kaur, Advocate for Chandeep Singh, Advocates for respondent No.4-SBI.

HARPREET SINGH BRAR, J. (Oral)

CM-3039-CWP-2025

The present application has been filed under Section 151 of CPC for placing on record the written statement filed on behalf of respondents No.1 to 3, to the captioned petition.

In view of the grounds mentioned in the application, the same is allowed, written statement filed on behalf of respondents No.1 to 3 is taken on record.

Registry is directed to place the same at an appropriate place.

CM-6208-CWP-2026

The present application has been filed under Section 151 of CPC for placing on record the replication to the written statement filed on behalf of respondents No.1 to 3, to the captioned petition.

In view of the grounds mentioned in the application, the same is allowed, replication to the written statement filed on behalf of respondents No.1 to 3 is taken on record.

Registry is directed to place the same at an appropriate place.

MAIN

(1) The present writ petition has been filed under Article 226/227 of the Constitution of India with a prayer for issuance of an appropriate writ in the nature of *certiorari/mandamus* declaring the action of respondents in making/effecting recovery from the family pension of petitioner w.e.f. 01.08.2024 on the alleged ground of making recovery of personal loan raised by her deceased husband while in service in the year 1996. Further praying for issuance of a writ in the nature of prohibition restraining the respondents from making/effecting recovery from the family pension of petitioner. Further directing to respondents to refund the amount of family pension if any deducted on the ground of making aforesaid recovery.

(2) Learned counsel for the petitioner, *inter alia*, submits that the husband of the petitioner was initially appointed as a Work-Charge T-Mate with the erstwhile Punjab State Electricity Board and his services were subsequently regularized on the post of Assistant Lineman on 21.10.1994. Thereafter, he was appointed as Lower Division Clerk on 28.02.2005. While serving in the office of respondent No.3, he unfortunately died in harness on 06.06.2013.

Consequent upon his death, the petitioner, being his widow, was sanctioned and has been receiving family pension w.e.f. 07.06.2013.

(2.1) It is further contended that, to the utter shock of the petitioner, respondent No.4-Bank, in August 2024, started effecting recoveries from her family pension account. Referring to communications dated 27.02.2024 and 28.06.2024 (Annexures P-5 and P-6) respectively, learned counsel submits that such recoveries have been initiated on the ground that the deceased husband of the petitioner had availed a personal loan from respondent No.5-Bank in the year 1996. The impugned action is alleged to be wholly illegal, arbitrary, and contrary to established principles of law. It is argued that, even assuming the existence of such a loan and default, respondent No.5-Bank ought to have resorted to appropriate legal remedies, such as instituting recovery proceedings before a competent forum. The respondents cannot, on their own accord and without due process, effect recovery from the family pension of the petitioner.

(3) *Per contra*, learned counsel for respondents No.1 and 3-Corporation has sought to justify the recovery by placing reliance upon Section 39 of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as "the Act"). It is contended that, at the time of availing the loan in 1996, the deceased employee had executed an authority and an irrevocable undertaking authorizing deduction from his salary in the event of default. Reference has been made to Annexures R-8 and R-9 in this regard. It is thus argued that the action of the respondents is in consonance with the statutory provisions contained in Section 39 of the Act.

(4) Learned counsel for respondent No.4-Bank submits that the said respondent has been unnecessarily impleaded, as it is merely a disbursing agency. It is contended that the Bank has acted strictly in compliance with the directions issued by the respondent-Corporation and has no independent role in the matter of recovery.

(5) I have heard learned counsel for the parties and have perused the record with their assistance. It is not in dispute that the deceased husband of the petitioner had availed a personal loan in the year 1996 and that he continued in service until his death on 06.06.2013, i.e., nearly 17 years thereafter. It is also undisputed that the petitioner has been continuously receiving family pension since 07.06.2013. Section 39 of the Act be reads as under:-

> "39. Deduction from salary to meet co-operative societies' claim in certain cases.-
>
> (1) Notwithstanding anything contained in any law for the

time being in force a member of a co-operative society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such agreement, the employer shall, if so required by the co-operative society by a requisition in writing and so long as the society does not intimate that the whole of such debt or demand has been paid, make the deduction in accordance with the agreement and pay the amount so deducted to the society, as if it was a part of the salary or wages payable in the day as required under the Payment of Wages Act, 1936 (IV of 1936). Such payment shall be valid discharge of the employer for his liability to pay the amount deducted.

(3) If after the receipt of a requisition made under sub-section (2), the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned or makes default in remitting the amount deducted to the society, the society shall be entitled to recover any such amount from the employer as arrears of land revenue and the amount so due from the employer shall rank in priority in respect of the liability of the employer equal to that of the wages in arrears.

(Emphasis Supplied)"

(5.1) A plain reading of Section 39 of the Act makes it abundantly clear that it authorizes deduction from the "salary or wages" of an employee pursuant to an agreement executed in favour of a cooperative society. The provision does not, in any manner, extend to or authorize recovery from family pension payable to the legal heirs of a deceased employee. Thus, the reliance placed by the respondents on Section 39 of the Act is wholly misconceived and legally untenable.

(6) Despite service, respondent No.5-Bank has neither filed any reply nor put in appearance. Even on the last date of hearing, i.e., 13.12.2024, time was granted for filing a response; however, more than a year has elapsed without any representation on its behalf.

(7) A perusal of Annexures P-5 and P-6 reveals that respondent

No.5-Bank, for the first time, vide communication dated 25.07.2023, approached the respondent-Corporation for effecting recovery of the alleged loan. Acting upon the same, the respondent-Corporation issued instructions dated 28.06.2024 to initiate recoveries from employees/retirees. Further, vide communication dated 03.05.2024 (Annexure R-10), respondent No.3 informed the petitioner regarding the alleged outstanding amount of Rs.1,68,616/-. Subsequently, recoveries were effected in August and September 2024, which were later stayed by this Court by way of an interim order.

(8) This Court is of the considered view that the impugned recovery has been effected by erroneously invoking Section 39 of the Act, which is confined only to deductions from salary. Furthermore, the inordinate and unexplained delay of nearly 29 years in seeking recovery of the alleged loan, without initiating any legal proceedings during the lifetime of the employee, renders the claim stale and legally unsustainable. Such belated action cannot be permitted to prejudice the rights of the petitioner, who is a family pensioner.

(9) In view of the foregoing discussion, the present writ petition deserves to be allowed. Accordingly, the letter/order dated 27.02.2024 (Annexure P-5) is hereby quashed and set aside. The respondents are directed to refund the amount already recovered from the family pension of the petitioner, along with interest @ 6% per annum, to be calculated from the date of recovery till its actual realization. The aforesaid exercise shall be completed within a period of three months from the date of receipt of a certified copy of this order.

(10) All pending miscellaneous application(s), if any, shall also stand disposed of.

Reporter-Shubreet Kaur