

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.11754 of 2012

Date of Decision:-12.07.2016

Amarjit Singh.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Rajesh Bhateja, Advocate for the Petitioner.

Mr. Harkesh Manuja, Additional Advocate General, Punjab.

JASWANT SINGH, J.(ORAL)

The services of the petitioner as Clerk was regularized w.e.f. 14.02.1984 and he was finally promoted as a Junior Assistant vide order dated 10.09.1999 in the office of Deputy Excise and Taxation Commissioner, Patiala.

The pay of the petitioner w.e.f. 1.1.1996 was wrongly fixed at Rs.4550/- in the pay scale of Rs.4400-7000 by giving proficiency step up and further refixed the salary w.e.f. 1.1.1996 as Rs.4400/- i.e. initial of the pay scale. The department realizing the mistake vide order dated 6.9.2007 (P-7), refixed the salary by reducing the same from 1.1.1996 and based on such refixation the subsequent annual refixation thereby a recovery of Rs.79,145/- was effected by deducting monthly installments as also set off Rs.20,324/- as some arrears. Thus the pay of the petitioner stood reduced w.e.f. October 2007 itself.

The petitioner after the entire deductions have been made, filed the aforementioned writ petition after a delay of almost five years challenging the action of refixation and reduction of pay.

At the time of initial hearing and issuance of notice of motion the question of refixation was given up and grievance was made only qua the recovery in the light of the Full bench judgment of this Court in **Budh Ram Vs. State of Haryana & Ors. 2009(3) SCT 333.**

Learned Counsel for the petitioner submits that since the fixation of the higher pay was not based on misrepresentation and fraud on part of the petitioner, no recovery can be effected.

On the other hand learned State Counsel submits that no doubt no recovery could be effected in the light of the settled law however, on account of delay and laches no relief can be extended to the petitioner since even the suit would have been barred as the recovery stood effected and the petitioner was aware of such recoveries.

After hearing learned Counsel for the parties, this Court is persuaded to accept the plea raised on behalf of the State. There is no dispute regarding the settled law on the subject, however, on account of recoveries already having been effected much prior to the filing of the present writ petition, this Court is not persuaded to exercise such jurisdiction being hit by delay and laches.

In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

July 12, 2016
Vinay