

**201 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.709 of 2011 (O&M)
Date of decision : October 17, 2016**

Sushil Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Petitioner who was working as JBT Teacher, retired on 30.06.2004. Earlier also, petitioner approached this Court through two writ petitions regarding his claim for counting of the adhoc service and grant of additional increments and other benefits on completion of 8/18 years of service. Now, for the third time, the petitioner has approached this Court challenging the orders passed by the respondents, vide which his pay has been refixed. Consequently, the pension has also been refixed vide impugned refixation (Annexure P-5).

The reply filed by the respondents shows that according to them, the error occurred while fixing the pay of 01.04.2002, and 01.04.2003. According to the respondent, the pay of the petitioner on 01.04.2002 should have been ₹6,900/-, after adding the increment of ₹175/-. However, inadvertently, two increments were added instead of one due increment and the pay was fixed at ₹7,025/-. The said error has now been

corrected.

I have heard learned counsel for the parties and have also carefully gone through the file.

After going through the table given in written statement, it comes out that on 01.01.2002, the pay of the petitioner has been fixed at ₹6,725/-, on 01.04.2002, his pay has been fixed at ₹6,900/- after correcting it from ₹7,075/-. Thereafter, his pay has been fixed at ₹7,075/- and from 01.04.2004, his pay has been fixed at ₹7,250/-.

The petitioner retired from service on 30.06.2004. However, while calculating the pension, his pay has been fixed at ₹7,250/-, as coming out from the written statement and the pension has been accordingly fixed.

I am of the view that the said re-fixation is incorrect. Since last drawn pay of the petitioner was ₹7,250/- even as per the newly fixed pay, therefore, his pension is also to be calculated accordingly, taking his last drawn salary as ₹7,250/-. Accordingly, a writ of mandamus is issued directing the respondents to correctly re-fix the pension, after taking the last drawn salary as ₹7,250/-. Needless to say that in view of authority of judgment of Hon'ble the Supreme Court rendered in case of ***“State of Punjab and others vs Rafiq Masih”, 2015(1) S.C.T., 195***, no recovery of the arrears shall be effected from the pension of the petitioner.

Resultantly, the present petition is allowed.

(KULDIP SINGH)
JUDGE

October 17, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: No