

102+204

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

**C.M.No.2141-CWP-2016 in/and
CWP No.23311 of 2015
Date of decision-26.02.2016**

Mohan Singh

..Petitioner

Vs.

Union of India and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE M.JEYAPPAUL
HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present:- Mr. Rohit Seth, Advocate
for the petitioner.

Mr. Vivek Singla, Advocate
for the respondents.

M.JEYAPPAUL, J. (Oral)

C.M.No.2141-CWP-2016

This is an application filed by the writ petitioner under Order 6 Rule 17 CPC praying for amendment of the writ petition, pursuant to the order passed by the respondents in terms of the directions issued by the Tribunal.

In our considered view, the order passed by the respondents has in fact given a fresh cause of action to the writ petitioners, more especially when such an order has been passed by the respondents only in compliance with the orders passed by the Tribunal. Under the above circumstances such an application for amendment of the writ petition cannot be entertained by this Court.

The application stands dismissed.

CWP No.23311 of 2015

We have heard the arguments submitted by learned counsel for the writ petitioner as well as the learned counsel appearing for the contesting respondents. Writ petitioner had in fact prayed for quashing the impugned order passed by the respondents fixing the retiral benefits on the ground that the principles of natural justice were not adhered to by the respondents. The writ petitioner also has prayed that the respondents should be directed to re-fix the pay and release all the retiral benefits.

Learned counsel appearing for the writ petitioner vehemently submits before this Court that the respondents should have returned the amount recovered from the writ petitioner and thereafter, issued notice to the writ petitioner contemplating re-fixation of the pay.

The Tribunal has in fact passed an order in favour of the writ petitioner and the respondents have in fact fixed the salary and pensionary benefits after giving opportunity to the writ petitioner, in terms of the order passed by the Tribunal.

Learned counsel appearing for the writ petitioner would further submit that in terms of the decision taken by the Hon'ble Supreme Court in **Sushil Kumar Singhal Vs. Pramukh Sachiv Irrigation Department and others 2014 (3) SCT 98**, the employer is prohibited from recovering the excess payment made to an employee who has retired from service.

In our considered view, such a plea can very well be taken by the writ petitioner during the course of challenge, if any, made against the fresh order passed by the respondents in terms of the order passed by the Tribunal in the subject matter.

We are of the view that nothing survives in the writ petition for determination and accordingly the writ petition stands disposed of after giving liberty to the writ petitioner to challenge the order passed by the respondents in terms of directions issued by the Tribunal.

(M. JEYAPPAUL)
JUDGE

(RAJ MOHAN SINGH)
JUDGE

February 26, 2016
vanita