

In the High Court of Punjab and Haryana at Chandigarh

**Civil Writ Petition No. 4776 of 2013
Date of Decision: 28.3.2016.**

Jagjit Singh

.....Petitioner

Versus

Union Bank of India and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.D.Bawa, Advocate
for the petitioner.

Mr. K.K.Gupta, Advocate
for the respondents.

SABINA, J.

Petitioner has filed this petition under Article 226 of Constitution of India seeking a writ in the nature of mandamus directing the respondents to fix his pay at ₹ 2040/- on his joining the bank as on 4.3.1987 in terms of staff circular dated 30.6.1987 (Annexure P-2).

Case of the petitioner, in brief, is that he had retired from Army as a Naik on 30.11.1978. Petitioner was selected as Bank Armed Guard in the pay scale of ₹ 430 + ₹ 56 + Dearness Allowance etc. vide letter dated 13.11.1986. Petitioner joined on the above said post on 4.3.1987. Staff circular dated 30.6.1987 (Annexure P-2) was issued by the respondent bank and as per the said circular, the pay of re-employed Ex-serviceman was liable to be fixed by taking in consideration his last pay drawn from the army. However, pay of the petitioner was not fixed in terms of

circular Annexure P-2. Petitioner retired from service on 28.2.2005. On 22.1.2010, petitioner learnt that his last pay drawn from the Army was liable to be protected at the time of his re-employment. Petitioner was not aware of circular Annexure P-2 and due to this reason, he could not approach the respondent bank immediately at the time of fixation of his pay. The bank had rejected his claim on the ground of delay vide Annexure P-9 dated 25.8.2012. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that the petitioner was merely working as a Guard with the respondent bank and was not aware of the circular Annexure P-2 issued by the bank. Circular Annexure P-2 was never brought to the notice of the petitioner. In fact, the bank was itself bound to fix the pay of the petitioner in terms of circular Annexure P-2. Petitioner could locate the circular Annexure P-2 in the year 2013 after moving an application under the Right to Information Act, 2005 and has thereafter filed the present writ petition.

Learned counsel for the respondents, on the other hand, has opposed the petition and has submitted that the writ petition was liable to be dismissed on account of delay and laches. In this regard, learned counsel for the respondents has placed reliance on the decision of this Court in CWP No. 2092 of 2014 titled 'Gurdeep Kaur versus State of Punjab and others' decided on 5.2.2014. LPA No. 806 of 2014 filed against the said decision was dismissed vide order dated 25.5.2015.

While dismissing CWP No. 2092 of 2014, this Court has held as under:-

“The petitioner in the present case retired from

service on 31.10.2006. She was appointed on 16.2.1972. Prayer in the present case is for consideration and fixation of the pay of the petitioner w.e.f. 1.11.1971 instead of 16.7.1975 and grant of all consequential benefits. In support, reliance has been placed upon a judgment of this court in CWP No. 2208 of 1989— Lekh Raj Khera and others vs State of Punjab and others, decided on 24.3.2009.

After hearing learned counsel for the petitioner, in my opinion, the present petition deserves to be dismissed on account of delay and laches. All along the petitioner had been serving in the department. About eight years after her retirement, she is seeking re-fixation of her pay from 1.11.1971, i.e., more than 35 years before her retirement. Such an issue has been considered by this court in Bal Krishan vs State of Punjab and others, 2012(4) SCT 712, wherein it has been opined that any issue regarding salary can be raised during the period of service or within some reasonable time after retirement. The issue regarding fixation of salary on 1.11.1971 cannot be permitted to be raised almost 8 years after her retirement as it does not remain a continuing cause of action.

For the reasons mentioned above, the writ petition is dismissed.”

In the present case, petitioner had joined the respondent bank as Bank Armed Guard on 4.3.1987 in pursuance

to the order dated 13.11.1986 (Annexure P-1). Petitioner approached the respondent bank for re-fixation of his pay after his retirement vide representation dated 22.1.2010. Vide order dated 25.8.2012 (Annexure P-9), the request of the petitioner for re-fixation of his salary was declined. The said order reads as under:-

“Kindly refer your letter dated 14.12.2011 vide you had sent us the request of the above named for re-fixation of his salary. In this regard, we wish to inform you that the matter was referred to the higher authorities at Central Office who have advised as:-

Sh. Jagjit Singh joined the services of the Bank on 4.3.1987 as an Armed Guard. His pay fixation was done in 1987. He has paid the salary and other allowances as per prevailing rules all through his service period. Sh. Jagjit Singh never raised any objection or made any representation during his entire service with the Bank regarding fixation of his salary paid by the Bank. Sh. Jagjit Singh retired on 28.2.2005 from services of the Bank and was paid all the terminal benefits as per rules of the Bank.

His present request for re-fixation of salary has been received after 6 and half years of retirement from services of the Bank and 18 and half years after his joining the services of the Bank. At this stage we do not have any records about his pay fixation, which was done in 1987. Hence, we are unable to consider request for re-fixation of

his salary drawn by him from the bank during the period 4.3.1987 to 28.2.2005 when he served the Bank.”

In the present case, petitioner had retired from service on 28.2.2005. Petitioner moved representation dated 22.1.2010 (Annexure P-4) for re-fixation of his pay with effect from 4.3.1987. Thus, the petitioner had waited for about five years after his retirement seeking re-fixation of his pay with effect from the date he joined service i.e. 4.3.1987. Thus, the issue regarding re-fixation of salary of the petitioner with effect from 4.3.1987 could not be allowed to be raised almost after about five years of his retirement. Accordingly, this petition is liable to be dismissed on the ground of delay and laches.

Dismissed.

**(SABINA)
JUDGE**

March 28, 2016
Gurpreet