

RSA No.1095 of 1991:
RSA No.1179 of 1991 &
RSA No.1178 of 1991

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

Date of decision: 13.01.2017

RSA No.1095 of 1991

Union of India ...Appellant

Vs.

Ujagar Singh etc. ...Respondents

RSA No.1179 of 1991

Union of India ...Appellant

Vs.

Sohan Singh etc. ...Respondents

RSA No.1178 of 1991

Union of India ...Appellant

Vs.

Balbir Singh etc. ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Nemo for the parties.

RAJIV NARAIN RAINA, J.

This order disposes of the aforementioned three regular second appeals i.e. RSA No.1095, 1179 & 1178 of 1991. Since all the appeals arise out of the judgment and decree passed by the learned first Appellate Court on 22.01.1991 and bear similar facts, the same are taken

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up for hearing together for passing a common order. However, for the facility of reference, the facts are being taken from RSA No.1095 of 1991.

The Union of India, Ministry of Home Affairs, New Delhi is the appellant, challenging the judgment and decree passed by the learned District Judge, Gurdaspur on 22.01.1991. The learned District Judge has reversed the judgment and decree of the trial Court. The respondents in these appeals are political sufferers whose pensions were abruptly stopped. They were aged between 75-90 years when the appeals were instituted in the year 1990 for setting aside the judgment and decree passed by the trial Court dated 28.07.1990 in different civil suits including Civil Suit No.69 of 1990 (Ujagar Singh Vs. Union of India & another).

The respondents were sanctioned political pension of ₹200/- per month w.e.f. 15.08.1972. This pension was paid to them upto 31.10.1976, when it was suspended without any rhyme or reason. They approached the Central Government through representations for restoring their pension. The pension was restored, but only w.e.f. 01.08.1980 and onwards. The claim in the declaratory suits brought by them was for restitution of pension remaining unpaid from 01.11.1976 to 31.07.1980 and arrears thereof by issuing mandatory injunction.

In the first instance, they had approached the trial Court at Gurdaspur for declaration of their rights to pension for the period claimed. The trial court dismissed the suit. They moved the first appellate Court. The learned District Judge found while reviewing the work of the trial Court that the suits have been dismissed on technical grounds, which were not justified on the facts of these cases. The learned District Judge found that the pension was suspended without assigning any reason and, therefore, the action was illegal, arbitrary and *ab initio* void. Adverse

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action by way of making recoveries of pension already paid to the plaintiffs, respondents herein, was not binding on the rights of the plaintiffs. Admittedly, the plaintiffs were freedom fighters, who had been granted political pension, which could not be arbitrarily stopped without giving them any notice or opportunity of hearing. Pension was a right protected by law. It was not a bounty to be paid and stopped at the sweet-will and pleasure of the Government. The very fact that the pensions were paid earlier without demur; then wrongfully suspended and lastly restored without judicial intervention is an admission by the Union of India that the right to political pension subsisted and remained alive. Unfortunately, in spite of the order of restoration of pension from the date it was stopped, the Union of India went ahead with making recoveries from Ujagar Singh and Sohan Singh for the period from 15.08.1972 to 31.10.1976 and no pension was paid to the plaintiffs from 01.11.1976 to 31.07.1980.

It was argued by the Government pleader before the learned District Judge that no pension is payable if the gross annual income of the pensioner from all sources exceeds the maximum limit of income prescribed for the grant of pension. The learned District Judge did not dispute this proposition of law and instead correctly noticed that when initially pension was sanctioned, the sanctioning authority must have fully satisfied itself that the gross annual income of the pensioner was within the maximum prescribed limit. However, if subsequently it was found that the gross annual income of the pensioner had increased beyond the maximum prescribed limit, it was incumbent on the authority to give notice and reasonable opportunity of defence. In the present case, no such thing was done and the pension was stopped arbitrarily. The argument raised by the Government pleader on law could not be heard in a vacuum. Since the

learned District Judge found that not an iota of evidence existed with the defendant to prove that after the grant of pension initially, the gross annual income of any of the plaintiffs had exceeded the maximum limit for the grant of pension. In each of the cases of the plaintiffs, the Deputy Commissioner, Gurdaspur had recommended the grant of pensions and had certified that the income of all these persons from all sources was less than the maximum prescribed limit. On the other hand, the claim of the plaintiffs was documented by evidence duly produced on judicial record. The learned District Judge appreciated the evidence on record and returned findings of fact in favour of the plaintiffs which are not open to be tinkered with on the second appeal side of this Court. The judgment of the learned District Judge is self-speaking and requires only cursory reading to understand that the Union of India had no case to bring up these three appeals to this Court, as no substantial question of law arises in these appeals on both the parameters of Section 100 of the CPC and Section 41 of the Punjab Courts Act, 1918.

As far as the issue of limitation is concerned in bringing the suits that vulnerability has been studiously taken care of by the lower appellate Court in a just and fair manner. Since the right claimed was recurring in nature being pension, the Court next below rightly held that period of limitation would run from the date of passing final order of restoration of pension and not from the date when the pension was actually stopped. It was on this point that the trial Court had fallen in patent error, which has been suitably corrected by the first appellate Court.

The other finding recorded by the trial Court holding that the suits had become infructuous was unsustainable in the opinion of the lower appellate Court and rightly so. The appellants had threatened to effect

recovery for the period earlier to 01.11.1976, in the case of Ujagar Singh and Sohan Singh, which was the original grievance of the plaintiffs, which brought them to the Court for payment of withheld pension and illegal recoveries made from pension without authority of law.

Since these appeals represent a very hard face of the Union of India in filing frivolous appeals only to harass political suffers and freedom fighters without a valid or justifiable ground, I would dismiss the appeals with costs throughout to be borne by the Union of India and paid to the respondents/LRs and heirs. The judgment and decree passed by the learned District Judge, Gurdaspur is confirmed and will remain executable including payment of interest at the rate of 12% p.a. compounded yearly from the date chosen by the Court below for the principal amounts of refunds and arrears, till payment.

A copy of this order be sent to the District Judge, Gurdaspur for purposes of execution by the appropriate trial Court.

Since no one appears for the parties and I have decided the cases on the basis of pleadings on record and on the file of these cases, a copy of this order be also sent to the Deputy Commissioner, Gurdaspur for informing the kith and kin/legal representatives of the three freedom fighters of passing of this order, wherever they may be in the native villages through their village Chowkidars/Revenue officials of the respective revenue estates. A compliance report be submitted by the Deputy Commissioner, Gurdaspur to the Registrar General of this Court, to be placed on the files of these appeals within a period of three months from the date of receipt of a certified copy upon which the matter be listed for perusal of the Court.

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Since no one has appeared for the parties, I restrain myself from imposing heavy cost on the Central Government on these appeals.

Office to act accordingly.

13.01.2017
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[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>