

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.W.P. No.2173 of 2018 (O&M)

Date of Decision: 30.11.2018

Union of India and ors.

.. Petitioners

vs.

Amarjit Singh and anr.

.. Respondents

Coram: Hon'ble Mr. Justice Rajiv Sharma
Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Anil Chawla, Advocate
for the petitioners.

None for the respondent No.1

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Rajiv Sharma, J.

CM-17776-2018

For the reasons taken in the Misc. Application, the same is allowed. The date of hearing in the writ petition is preponed from 07.03.2019 to today i.e. 30.11.2018.

CWP No. 2173-2018

The petitioner has sought judicial review of the order dated 18.09.2017 rendered by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as 'the Tribunal') in OA No. 060/00896/2016.

The brief facts necessary for the adjudication of the petition are that respondent No.1 opted for his basic cadre. He was placed in the pay scale of 4500-7000 and his pay was fixed at Rs.4750/- w.e.f. 4.4.1996. After completion of 16 years, respondent No.1 retired on attaining the age of superannuating on 31.07.2015. Notice was served upon respondent

No.1 on 4.11.2015 whereby the decision was taken to re-fix his salary.

Respondent No.1 has neither mislead nor mis-represented or concealed any fact at the time when he was placed in the pay scale of Rs.4500-7000 w.e.f. 4.4.1996.

It is settled law that the recovery cannot be ordered to be made after the retirement as per the ratio of the judgment in the case of **State of Punjab and ors. vs. Rafiq Masih (White Washer) and ors., 2015 (1) RSJ 177.**

The affect of re-fixation the salary of respondent No.1 was that his pension was reduced. The Tribunal has rightly relied upon the judgment in **Rafiq Masih's case (supra)** while issuing mandatory directions to the petitioners. The pay could not be refixed after two decades of his retirement. Respondent No.1 belongs to lowest strata of the society.

Accordingly, the writ petition is dismissed with costs of Rs.25,000/-.

(Rajiv Sharma)
Judge

(Harinder Singh Sidhu)
Judge

30.11.2018
Atul

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No