

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.14831 of 2019

Date of Decision: July 15, 2019.

Hardev Singh

.....Petitioner

versus

Union of India and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA.

Present: Mr.B.B.S.Randhawa, Legal Aid Counsel, for the petitioner.

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G.S.Sandhawalia, J. (Oral)

[1] The present writ petition has been filed under Articles 226/227 of the Constitution of India for recovery of a princely sum of Rs.4000/- which were admittedly recovered from the employee during his period of service. The petitioner retired on 30.04.2010 as a Junior Assistant and a period of 9 years has passed since then. Admittedly, the petitioner only approached this Court for the first time by filing Civil Writ Petition No.11470 of 2018 in which directions were issued on 08.05.2018 to pass a speaking order which have been duly complied with by passing order dated 14.06.2018 (Annexure P-6), which is also subject matter of challenge.

[2] Apparently, a stale cause of action was got revived by approaching this Court. The Apex Court in Civil Appeal No.2425 of 2019 The Government of India and another versus P.Venkatesh has held that such directions issued for deciding the representation and reviving the stale cause is not justified. The same reads as under:-

“These successive orders of Tribunal for re-consideration of the representation cannot obliterate the effect of the initial delay in moving the Tribunal for compassionate

appointment over a decade after the death of the deceased employee. This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do not service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9 August 2016, nearly twenty one years had elapsed since the date of the death of the employee."

[3] The present case is classic example of such stale claim which has been got revived by the directions which have been issued and thus speaking order has come for which cause of action had allegedly arisen to the petitioner during his service. A perusal of the impugned order would also go to show that the amount of Rs.4,000/- was deducted in 8 installments during service tenure of the petitioner pertaining to the period of 1.8.98 to 31.1.2000. It was always open to the petitioner as such to agitate during his service period at that point of time against the recovery which has been effected.

[4] A perusal of Annexure P-1 would also gone to show that on 23.12.2005, the petitioner himself had consented that recovery may be made in installments of Rs.500/-. In such circumstances, the challenge raised to the recovery made way back cannot be challenged in the writ jurisdiction which is an extra ordinary jurisdiction. The present case is not a fit case to invoke the writ jurisdiction of this Court, on account of delay and

laches on part of the petitioner and his conduct having given his consent also.

[5] In High Court of Punjab and Haryana and others versus Jagdev Singh (2016) 14 SCC 267, it was held that when undertaking has been given at the time of revision and recovery then affected the same would be sustainable in installments.

[6] Resultantly, there is no merit in this writ petition and the same is accordingly dismissed in limine.

July 15, 2019

mohinder

(G.S.SANDHAWALIA)

JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No