

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

**CWP-21131-2018 (O&M)
Date of decision : 7.3.2019**

Union of India and others

..... Petitioners.

Versus

Central Administrative Tribunal and others

..... Respondents.

**CORAM : HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE KULDIP SINGH**

Present:- Ms. Puneeta Sethi, Advocate for the petitioners.

KULDIP SINGH, J.

Petitioners-Union of India and others have impugned the order dated 1.12.2017 (Annexure P-3) passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for short 'the Tribunal') vide which original application No. 060/00654/2016 filed by applicant-respondent No.2 namely Madan Lal was partly allowed and the action of the respondent (present petitioners) in effecting recovery of excess payment was quashed and action of the respondents (present petitioners) refixing the pension as per the entitlement of the applicant-respondent No. 2 was upheld.

The short facts which are required to be noticed for the purpose of disposal of the present petition are that applicant-respondent namely Madan Lal was appointed as LDC with the respondent-department and retired as such on attaining the age of superannuation on 28.2.2005. He was paid pension @ Rs. 4031/- w.e.f. 1.3.2005. On implementation of 6th Pay

Commission, his pension was revised to Rs. 6076/- per month by issuing revised PPO w.e.f. 1.1.2006. He was regularly paid pension through the Central Bank of India, Ambala Cantt-respondent No. 6. In August 2015, he was called by respondent No. 6-Central Bank of India, Ambala Cantt. and was told that he has been wrongly paid higher pension than his entitlement. Therefore, while rectifying their mistake, they refixed the pension of applicant-respondent No. 2 @ Rs. 6076/- and ordered recovery of Rs. 5,12,140/- in installments @ Rs. 3776/- per month starting from September 2015. This action of the Bank has been challenged.

The respondent-department did not contest the factual position. It was stated that the pension of applicant-respondent No.2 was fixed @ Rs. 6076/- per month w.e.f. 1.1.2006 but he was wrongly paid higher pension, therefore, amended PPO was issued by Principal CDA (Pension), Allahabad.

We have heard learned counsel for the petitioner and have also carefully gone through the case file.

Admittedly, the case of the present petitioners before the Tribunal was that pension of the applicant-respondent No.2 was Rs. 6076/- w.e.f. 1.1.2006 but inadvertently, he was paid higher pension from the said date. This error was detected after more than 09 years i.e. in August 2015 and recovery has been ordered.

Admittedly, there is no misrepresentation or fault on the part of applicant-respondent No. 2 in excess payment of pension. At the most it was the fault either on the part of the department or the Bank.

The Tribunal has rightly relied upon the authority of the Apex Court reported in **2014 (8) SCC 883**, titled as **'State of Punjab and others vs. Rafiq Masih (White Washer)'** in which it was held that in place of Class III and IV employees, the excess payment made to them cannot be recovered after retirement if there is no misrepresentation or fault on the part of the employee.

Admittedly, applicant-respondent No.2 belong to Group III services and therefore, the authority of **Rafiq Masih's case (Supra)** was rightly applied. Similar view has been expressed by the Apex Court in another judgment reported as **AIR 2016 SC 3523**, titled as **'High Court of Punjab and Haryana and Others vs. Jagdev Singh'**.

In view of above, we do not find any illegality or infirmity in the impugned order dated 1.12.2017 (Annexure P-3) passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh.

Dismissed in limine.

(RAJIV SHARMA)
JUDGE

(KULDIP SINGH)
JUDGE

7.3.2019
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Whether speaking / reasoned	Yes
Whether Reportable:	Yes