

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

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**Civil Writ Petition No.4639 of 2021 (O&M)
Decided on : 10.11.2021**

Prem Chand (since deceased) through his legal heirs

... Petitioners

Versus

Union of India and others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present: Mr. Jagdeep Jaswal, Advocate for the petitioners.

Mr. B.B. Sharma, Advocate for the respondents.

(The proceedings have been conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

CM-6411-CWP-2021

Application for placing on record Annexure P-5 is allowed.

The said annexure is taken on record. Office shall substitute the same with
Annexure P-1 originally filed with the writ petition.

CM stands disposed of.

CWP-4639-2021

Challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the order dated 16.10.2019 (Annexure P-4), whereby the Original Application of the now deceased employee, who retired as Equipment and Boot Repairer (EBR) has been partly allowed to the extent that recovery of Rs.2,42,210/- effected at the time of retirement was held not justified, keeping in view the law laid down by the Apex Court in '**State of Punjab & others Vs. Rafiq Masih (White Washer)**' (2014) 8 SCC 883. However, the deceased employee's claim for

grant of higher pay scale from Rs.225-308 to Rs.260-400 w.e.f. 16.10.1981 as per letter dated 15.10.1984 was rejected.

The reasoning given by the Tribunal is that firstly there is a delay and at this belated stage the relief cannot be granted. Secondly it has been noticed that the letter dated 15.10.1984 (Annexure A-2) which the petitioner was relying upon, was applicable to the Industrial Workers of Army Ordnance Corps. (AOC) and the category of Equipment Boot Repairer was a Non-Industrial Group 'D' post and the pay scale authorized was Rs.2610-3540.

Counsel for the petitioner has vehemently submitted that the relief may be restricted to 36 months from the filing of the application (OA), to get over the issue of delay but the said argument does not impress this Court.

A perusal of the Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 would go on to show that the petitioner had joined on 31.05.1978 and his pay had been fixed in the pay scale of Rs.225-308 at that point of time. It is not disputed that he retired on 31.05.2014. Only after his retirement he had made a representation that persons junior to him who were working under him during the course of his employment, were drawing higher grade pay. It was, thereafter, he had served legal notice dated 19.07.2019 (Annexure A-3) seeking parity of higher pay scale and then filed the Original Application, which has now been dismissed as noticed above.

It is the settled principle that the claim as such has to be

made within a reasonable period of time. It is not disputed that during the tenure of his service, the deceased employee has never agitated for his claim and at this belated point of time after his retirement, he has filed the Original Application on 23.01.2018 i.e. almost 4 years after superannuation and after 30 years of service whereas the cause of action arose in 1984.

In such circumstances, this Court is of the opinion that the reasoning given by the Tribunal is well justified in rejecting the claim of the deceased employee. Thus, no case is made out to exercise the extraordinary writ jurisdiction of this Court to interfere in the well reasoned order of the Tribunal, which has rightly set aside the order of recovery against the petitioner. Resultantly, the present writ petition is dismissed.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

November 10, 2021
Naveen

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No