

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

CWP-25259-2018

Date of Decision: 07.12.2022

Central Bank of India and another

.....Petitioner(s)

Versus

Central Administrative Tribunal, Chandigarh Bench and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Ravi Kumar Sharma, Advocate,
for the petitioners.

Ms. Puneeta Sethi, Senior Panel Counsel,
for UOI.

G.S.SANDHAWALIA, J. (Oral)

In the present writ petition, the bank has challenged the order passed by the Central Administrative Tribunal, Chandigarh Bench dated 01.12.2017 (Annexure P-7) wherein, O.A. No. 060/00654 of 2016 filed by the retired employee was allowed to the limited extent that recovery could not be effected as more than 10 years had gone by since there was a wrong fixation of the pension. Thus, the employee was protected from the recovery of Rs.5,12,140/- which was done in monthly installments of Rs.3,776/- starting from September, 2015, after having attained the age of superannuation on 28.02.2005. The revised PPO had been issued on 01.01.2006 and it was in such circumstances, the benefit was given keeping in view the law laid down by the Apex Court in ***State of Punjab and others vs. Rafiq Masih (White Washer), 2014 (8) SCC 883.***

While issuing notice of motion on 01.10.2018, the writ petition

qua the retiree was dismissed and notice was issued only to resolve the matter

whether the retiree was to be paid by the bank or the respondent-department. It is not disputed that the issue now would only remain regarding whether it is the liability of the bank or the respondent-department as to whether the excess amount which has gone to the retiree is to be adjusted by whom.

It is also a matter of record that CWP No. 21131 of 2018 filed by the Union of India against the same order was dismissed in *limine* on 07.03.2019 and the order has been upheld while noting that the fault could be either on the part of the department or the bank and there was no misrepresentation or fault on the part of the retired employee.

In such circumstances, we are of the considered opinion that no further proceedings are liable to be continued in the present set of litigation as whether the fault was of the bank or the department will have to be proved by leading necessary evidence and it would be a disputed question of fact.

Resultantly, keeping in view the settled proposition of law that the writ court is not to go into the thicket of facts, we dispose of the writ petition with liberty to the bank to seek its remedy in accordance with law, if so desired.

(G.S. SANDHAWALIA)
JUDGE

07.12.2022
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(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No