

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

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**LPA No.1367 of 2017 (O&M)
Decided on : 02.03.2022**

Naginder Singh and others

... Appellants

Versus

State of Punjab and others

... Respondents

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

Present: Mr. Vivek Aggarwal, Advocate for the appellants.

Mr. SPS Tinna, Addl. AG, Punjab.

Mr. Akash Soni, Advocate for

Mr. Saurav Verma, Advocate for respondent No.6.

G.S. Sandhawalia, J. (Oral)

CM-2953-LPA-2017

Application for condoning the delay of 17 days in filing the appeal has been filed.

For the reasons mentioned in the application, the same is allowed. Delay of 17 days in filing the appeal is condoned.

CM stands disposed of.

LPA-1367-2017

Present letters patent appeal is directed against the order of the learned Single Judge dated 18.04.2017 whereby the writ petition filed by the writ petitioners bearing CWP No.7582 of 2017 was dismissed in limine.

The reasoning given by the learned Single Judge was that the recoveries as such were made on 01.01.2006, 01.01.2007 and 01.07.2007 and a period of 10-11 years had elapsed and, therefore, on account of it not being a recurring loss, the writ petition being barred by delay and laches, the same was dismissed. Review application was also filed by appellants,

which was dismissed on 24.05.2017 by noting the fact and as pointed out by counsel for the appellants that recoveries were effected in the year 2011 and that even then there was a delay of 6 years.

While issuing notice of motion on 30.08.2018, the Coordinate Bench had taken note of the fact that similar writ petitions had been accepted by this Court. Thereafter, on 06.02.2020 the following order was passed:-

“It is contended that the respondents-Banks i.e. Respondent nos.4 to 10 have without any valid authorization or instructions issued by the State Governments proceeded to make recoveries of amounts of LTC concession availed by the appellants, who had retired from their services from respective departments prior to 01.01.2006.

Service is complete on all the Banks.

Except respondent nos.6 & 9-Banks none of the remaining banks are represented.

List for further consideration on **27.04.2020**.

Let the Branch Managers of all the Banks-respondent nos.4 to 10 be present in Court on the next date of hearing.

Registry to convey the directions to the quarters concerned.

In case the necessary relief after examination of the matter is extended to the appellants, there would be no need for the said Managers to be present in Court on the next date of hearing.”

The Branch Managers' could not put in appearance on the said date as regular hearing was suspended due to Covid-19

pandemic. Nothing has been brought on record that the matter has been re-examined by the concerned Managers for refunding the amounts as noticed above, in spite of the fact that a period of almost 2 years have passed.

A perusal of Annexure P-5 would also go on to show that amounts ranging from Rs.9,132/- to Rs.20,120/- were recovered from the writ petitioners, who are senior citizens and it was after their retirements as such.

Counsel is well justified to point out that in similar circumstances **CWP No.23198 of 2015 'Khazan Chand & others Vs. State of Punjab & others'**, which was allowed on 06.10.2017 alongwith 6 other petitions, it was noticed that no notice had been served upon the writ petitioners and no opportunity of hearing had been given and, thus, the recovery of Leave Travel Concession was held to be illegal and arbitrary. It was also held that interest @ 9% per annum from the date of recovery till the actual repayment of the amount as well as refund of amount recovered, if not paid within two months of the date of receipt of certified copy of the order, was liable to be made.

A perusal of the said order would also go on to show that the reasoning was based on the interim order dated 31.10.2015 wherein while issuing notice of motion in the said case, the preemptive order had been passed as such to refund the amount by taking indemnity bonds. It was also noticed that the Banks had

refunded the amounts, as per the reply filed.

In such circumstances, we are of the opinion that the writ petitioners being similarly placed as such are also entitled to the same benefit of the refund of the amounts, as they would be covered by the decision of the Apex Court passed in '**State of Punjab & others Vs. Rafiq Masih (White Washer)**' (2014) 8 SCC 883.

Counsel for the appellants is fair enough to concede that the appellants would not press for the interest element on the recovery amount on account of the delay as such at their instance and thus they cannot take advantage of the said period for claim of interest by not approaching the Court immediately.

Accordingly, in view of the above discussion, the present appeal is allowed and the orders of the learned Single Judge dated 18.04.2017 and 24.05.2017 are set aside. Directions are issued to the respondents-Bank to refund the amounts as mentioned in Annexure P-5 by crediting the same in the bank accounts of the writ petitioners, within a period of one month from the receipt of the certified copy of this order.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

March 02, 2022
Naveen

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No