

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No. 924 of 2022 (O&M)

Date of Decision: 05.07.2023

Bal Krishan Sharma

.....Appellant

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present : Mr. Vivek Slathia, Advocate, for the appellant.
Mr. Deepak Balyan, Addl. Advocate General, Haryana.

RAVI SHANKER JHA, CHIEF JUSTICE (oral)

CM No. 2224-LPA-2022

For the reasons set out in the application, delay of 10 days in filing the appeal is condoned. Application stands allowed.

CM No. 2225-LPA-2022

For the reasons set out in the application, delay of 10 days in re-filing the appeal is condoned. Application stands allowed.

LPA No. 924 of 2022

This appeal has been filed by the appellant being aggrieved by the order dated 07.07.2022 passed by the learned Single Judge in Civil Writ Petition No. 25821 of 2016. In the said petition, the petitioner-appellant had challenged the order dated 07.11.2016 by which the excess payment made to the appellant towards pension was sought to be recovered.

2. Brief facts leading to the filing of the petition are that the petitioner, who was working in the establishment of the respondent-authorities, superannuated on 30.11.1990 and was paid the pension. It has

been stated that the petitioner received an order in the year 2016 to the effect

that the petitioner has received more pension than his entitlement and therefore, the excess amount paid to him was required to be refunded back.

3. The petitioner being aggrieved by the said order filed a petition before this Court challenging the order of recovery towards pension and for that purpose relied upon a decision of the Supreme Court rendered in the case of *State of Punjab and others vs. Rafiq Masih (White Washer) etc. 2015(1) SCT 195*. The learned Single Judge dismissed the petition filed by the petitioner-appellant on the ground that while being paid pension the petitioner had given an undertaking that in case any amount in excess is paid to him, that would be refunded by him. The learned Single Judge held that in view of the aforesaid, the reliance placed by the petitioner in the case of *Rafiq Masih* etc. was not applicable and his case was squarely covered by the decision rendered in *High Court of Punjab and Haryana and others vs. Jagdev Singh, 2016(14) SCC 267*.

4. Learned counsel for the appellant submits that the appellant-petitioner superannuated in the year 1990 and thereafter the petitioner started getting the pension which was revised in the year 2016. Subsequently, the petitioner was informed that he has been paid amount in excess towards pension and therefore, the said amount was required to be recovered from him.

5. It is submitted that the petitioner had given an undertaking on 26.08.2016 (Annexure R-3/1) filed along with the return in which he has categorically stated that the amount in the shape of arrears and excess pension paid to him would be returned shortly in accordance with the calculation made by the authorities. The petitioner had also given a letter in writing Annexure R-3/2 to the effect that the excess amount credited in his

account may be deducted at the rate of 35% out of the pension amount every month.

5. It is submitted by learned counsel for the appellant that these undertakings and letters were given by the petitioner-appellant not at the time of initial disbursement of the pension but at the time when the revised pension along with arrears was disbursed to him. He submits that this is a distinguishing feature between the case of *Jagdev Singh (supra)* and the petitioner and in such circumstances the reliance placed by learned Single Judge on the decision rendered in Jagdev Singh case (supra) and denying benefits on the basis of *Rafiq Masih (supra)* is erroneous and therefore, deserves to be set aside.

6. We have heard learned counsel for the parties at length.

7. From the facts narrated above, it is evident that the authorities are recovering the excess amount being paid to the petitioner towards pension and in that regard the petitioner had already given an undertaking (Annexure R-3/1) that he would refund the excess amount paid to him but requested to recover the same in easy installments. When specifically asked, learned counsel for the appellant stated and conceded that the appellant-petitioner was not entitled to the excess amount paid to him. However, he states that there was no suppression of facts or material on his part while the excess amount was disbursed to him.

8. In view of the aforesaid facts and circumstances, we are of the considered opinion that the decision of the learned Single Judge in dismissing the petition relying upon the decision of *Jagdev Singh's (supra)* does not call for any interference by this Court specifically in view of the fact that the appellant had given an undertaking that he would refund the excess amount, if any, paid to him towards pension and had also sought for

recovering the same in easy installments. The Supreme Court in *Jagdev Singh (supra)* has distinguished the decision rendered in *Rafiq Masih (supra)* in paragraphs No.11 and 12. Accordingly, the appeal filed by the appellant stands dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

05.07.2023
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No