

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARHSr. No.102LPA-1085-2022Date of decision : 04.09.2024

Jogi Ram

..... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDAPresent : Mr.Saurabh Bajaj, Advocate, for the appellant.

Mr.Vivek Chauhan, Addl.A.G., Haryana.

* * * * *

DEEPAK SIBAL, J. (Oral)

1. On 01.02.1977 the appellant joined as a Junior Engineer in the Irrigation Department, Haryana. Later, he earned promotion as Sub Divisional Officer and from such post, on attaining the age of superannuation, retired from service on 31.01.2012. On 18.10.2012 the appellant's pension was re-fixed as the office of the Accountant General, Haryana found that in the year 1992 the appellant had wrongly been granted an increment. A sum of Rs.1,72,241/- was also ordered to be recovered from the appellant's payable gratuity. The appellant challenged such action of the State through filing of a petition before this Court through which he claimed not only the deducted amount of Rs.1,72,241/- but also interest thereupon. A learned Single Judge of this Court relying on the law laid down by the Supreme Court in ***State of Punjab and others vs. Rafic Mashih (White Washer) etc. (2015) 4 SCC 334***, held that the recovered amount could not be recovered from a retired employee like the appellant and resultantly, ordered the State to refund Rs.1,72,241/- to him. However, the claimed interest was not granted. Non grant of interest by the learned Single Judge has been challenged by the appellant through the instant intra court appeal.

2. Learned counsel for the appellant has been heard.



3. While the appellant served the Irrigation Department of the State of Haryana, an additional increment was granted to him in the year 1992. At the time of the appellant's retirement in the year 2012 while the State calculated his payable retiral benefits, the Audit Department of the State found that the appellant was not entitled to the increment granted to him in the year 1992. Accordingly, the excess amount paid to the appellant was recovered from his payable gratuity.

4. Since the appellant had already retired and that admittedly he had also not misrepresented or played any fraud with the State at the time of grant of the additional increment in the year 1992, through the impugned judgment the learned Single Judge, while following the law laid down by the Supreme Court in **Rafiq Mashih's** case (supra) ordered that the excess amount recovered from the appellant be refunded to him. However, since neither before the learned Single Judge nor before us the appellant justified the grant of the afore increment to him or has shown that he was entitled to the grant thereof, we are of the opinion that on the refund of the excess amount recovered by the State from the appellant no interest is required to be paid as from the year 1992 till the year 2012 it was the appellant who received and used excess amount to which he was otherwise not entitled to.

5. Dismissed.

[DEEPAK SIBAL]
JUDGE

04.09.2024
shamsher

[DEEPAK MANCHANDA]
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No