



LPA-97-2025 (O&M)

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

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LPA-97-2025 (O&M)

Date of Decision: 16.01.2025

Union of India and others

..... Appellants

Versus

Naresh Kumar

..... Respondent

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Ramesh Chand Sharma, Advocate
for the appellants.

SANJEEV PRAKASH SHARMA, J (ORAL)

CM-218-LPA-2025

This is an application for condonation of delay of 145 days in filing the present appeal.

For the reasons mentioned in the application, the same is allowed and the delay of 145 days in filing the appeal is hereby condoned.

Main Case

1. This is an appeal preferred by the appellants challenging the judgment passed by the learned Single Judge dated 13.11.2024, whereby, his petition has been dismissed.

2. It is an admitted position that the respondent-writ petitioner retired on 31.01.2021. The order of refixing his pay w.e.f. 01.01.1999 and resultantly recovering an amount of Rs.1,28,080/- from petitioner's gratuity



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was challenged by the writ petitioner before this Court. It is an admitted position that after retirement, no show-cause-notice was given to the respondent/writ petitioner before passing of the order dated 18.10.2022. We noticed that the respondent/writ petitioner had earlier preferred a writ petition i.e. CWP-7902-2021 seeking release of pensionary benefits after he had retired on 31.01.2021. The Court after considering all the aspect held the demand of respondents of affixing photograph of his wife as totally unjust and directed as under:-

“As demand of the respondent, due to which the pensionary benefits have been withheld, is totally unjust and the respondents have retained the pensionary benefits of the petitioner for more than one year, the petitioner is held entitled for interest on the payment which will be released to him now @ 6% per annum from the date the pensionary benefits became due till the release of the same.

Let this order be complied with within a period of two months from the receipt of copy of the same.

The present petition is allowed in above terms”.

3. Thereafter, the appellants instead of releasing the pension have issued the order dated 18.10.2022 refixing his salary w.e.f. 01.01.1999 and initiating recovery of Rs.1,28,080/- from his gratuity and retiral benefits which resulted in the writ petition being filed by the respondent again before this Court challenging the order dated 18.10.2022.

4. The learned Single Judge has allowed the writ petition and set aside the refixation order with direction to pay the pension of the petitioner as on 31.01.2021 and arrears along with interest @ 6% per annum. The cost of Rs.10,000/- has also been imposed on the appellants. Learned counsel's

contention that the pay fixation had wrongly been done on 01.01.1999 and

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therefore, the fixation done by the appellants vide order dated 18.10.2022 ought not have been interfered, is found to be without basis. After the petitioner had already retired on 31.01.2021, his pay and allowances could not have been reduced to his disadvantage by the respondents while issuing the order dated 18.10.2022. We noticed that in the earlier litigation also, the respondents had not passed any such order of refixing his salary and lowering down the same. The order has been passed without giving opportunity of hearing also. Thus, the learned Single Judge has rightly held the same to be unjustified and quashed the same accordingly.

5. In view thereto, the judgment passed by the learned Single Judge does not warrant any interference and the same is upheld. Accordingly, the appeal is dismissed. The appellants shall comply with the order positively within a period of one month from today, failing which, an additional cost of Rs.20,000/- shall be recovered from the concerned Officer, who delays in releasing the pension along with interest.

6. The pending misc. application(s), if any, shall stand(s) disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

16.01.2025
D.Bansal

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