

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/01558/2018

Chandigarh, this the 10th day of January, 2019

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**CORAM:HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)**

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Shri Kulbhushan Kakar S/o Late Sh. Satyapal Kakar, aged 53 years, retired Superintendent, Department of Posts, R/o House No. 146/3, Bank Colony, Manimajra Town, Chandigarh – 160101.

....Applicant

(Present: Mr. Rahul Garg , Advocate)

Versus

1. Union of India through the Secretary to the Govt. of India, Director General, Posts & Chairman Postal Services Board, Department of Posts, India, Ministry of Communications & IT, Dak Bhawan, Sansad Marg, New Delhi – 110001.
2. Secretary, Ministry of Personnel, Public Grievances & Pension, Department of Personnel and Training, North Block, New Delhi – 110001.
3. Director of Accounts (Postal), Kapurthala, Punjab – 144601.
4. Assistant Director General (Establishment), O/o Director General, Posts & Chairman Postal Services Board, Department of Posts, India Ministry of Communications & IT, Dak Bhawan, Sansad Marg, New Delhi -110001.
5. Senior Accounts Officer (Postal), O/o Director of Accounts (Postal), Kapurthala, Punjab – 144601.
6. The Chief Post Master General, Punjab Circle, Chandigarh – 160017.
7. The Senior Superintendent of Post Offices, Chandigarh Division, Sector 17, Chandigarh – 160017.
8. The Senior Post Master, Sector 17, Chandigarh – 160017.

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Respondents

ORDER (Oral)
SANJEEV KAUSHIK, MEMBER (J)

1. Applicant has assailed the order dated 29.06.2018 (Annexure A-1) and communication dated 18.07.2018 (Annexure A-2) whereby a recovery of Rs.65793/- is ordered from him, in pursuance of revised option for pay fixation w.e.f. from 24.08.2007 instead of 01.01.2006.

2. Learned counsel submitted that the applicant earlier approached this Tribunal by filing O.A. No. 060/00894/2016 which was disposed of with a direction to the respondents to consider the revised option for pay fixation given by the applicant and fix his pay accordingly. In pursuance thereof, the respondents fixed the pay of the applicant, as per his option, from 24.08.2007 i.e. the date of his promotion to the post of HSG-1, instead of 01.01.2006, as was done earlier. As a result thereof, a recovery of Rs.65793/- has been worked out, which was paid to him consequent to earlier pay fixation w.e.f. 01.01.2006, for the period 01.01.2006 to 23.08.2007. Learned counsel argues that the excess amount paid to the applicant being, retiree, cannot be recovered in view of law laid down by the Hon'ble Supreme Court in the case of **State of Punjab & Others Vs. Rafiq Masih (White Washer) etc.** (Civil Appeal No. 11527 of 2014 decided on 18.12.2014).

3. We have given thoughtful consideration of the matter. Applicant himself, by filing O.A., prayed for exercising of revised option for pay fixation w.e.f. 24.08.2007 instead of earlier one from 01.01.2006. This Court also gave decision in his favour and directed the respondents to consider his revised option for pay fixation. Now, when the respondents, in pursuance of the order of

this Court, accepted his revised option and fixed his pay w.e.f. 24.08.2007 instead of 01.01.2006, then the applicant is bound to surrender the benefit he received in pursuance of earlier pay fixation. The ratio laid down in the case of Rafiq Masih (Supra) is not applicable in the present case, as the applicant himself represented to allow him to exercise revised option and the respondents re-fixed his pay according to his option. Thus, the amount paid to the applicant, in pursuance of earlier pay fixation, has to be refunded by him. Therefore, we are of the view that the impugned order does not warrant any interference by this Court. More so in view of the law laid down in the case of High Court of **Punjab and Haryana & Others Vs. Jagdev Singh**, JT 2016 (7) SC 409, wherein such like cases the recovery has been held to be permissible.

4. At this stage, learned counsel seeks permission to withdraw the O.A., with liberty to the applicant to represent the respondents to get a calculation of re-fixation of his pay in terms of orders of this Court, and to approach the Court of law, if he finds it adverse to his interest.

5. Ordered accordingly.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 10.01.2019

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