

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
AT CIRCUIT SITTING SHIMLA**

...
ORIGINAL APPLICATION NO.063/001491/2018

Chandigarh, this the 14th day of December, 2018

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

...
B.S. Latwal, s/o Shri Gopal Singh Latwal, Retired as Chief Technical Officer(Group C), Central Potato Research Institute, Shimla, presently R/o 150, Sunder Block, Shakerpur, Delhi - 110092.

....Applicant

(Present: Mr. M.L. Sharma, Advocate)

Versus

1. Union of India through the Secretary, Ministry of Agriculture, Krishi Bhawan, New Delhi – 110001.
2. Indian Council of Agricultural Research Krishi Bhawan, New Delhi – 110001.
3. The Director, Central Potato Research Institute, Shimla – 171001.

..... Respondents

(Present: Mr. Anshul Bansal, Advocate)

**ORDER (Oral)
SANJEEV KAUSHIK, MEMBER (J)**

1. The present O.A. has been filed by the applicant assailing the order dated 05.10.2016 (Annexure A-5) and office order dated 18.06.2015(Annexure A-8), and entry (Annexure A-7) in the service record regarding re-fixation of pay of the applicant being void and illegal.
2. Learned counsel for the applicant submitted that the view taken by the respondents in withdrawing three advance increments from the applicant is bad in law and is contrary to their own instructions dated 12.04.1999 (Annexure A-6), and, therefore, he prayed that the impugned orders be quashed and the respondents be directed to grant three advance increments in pursuance of the above instructions.
3. Issue notice.

4. At this stage, Mr. Anshul Bansal, Advocate, appears and accepts notice. He raises the plea of res judicata. He submitted that the applicant approached this Court for the same very relief at an earlier point of time also and therefore, he is barred to file the present O.A. by principles of res-judicata.

5. After going through the paper book it transpired that the applicant had earlier also approached this Tribunal by way of O.A. NO. 063/00117/2016 which was decided vide order dated 18.05.2017. In that O.A, the applicant challenged the order dated 19.05.2016 (Annexure A-3 therein), whereby the respondents re-fixed his pay by rectifying their mistake and secondly have decided to recover Rs.2,63,344 /- from him, and also the order dated 05.10.2016 whereby his representation has been rejected. The O.A. was allowed to the extent that the respondents were directed not to effect recovery from the applicant, being a retired employee, 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)** (2014 (8) SCC 883). Only the prayer qua recovery was allowed but the view taken by the respondents to rectify the mistake and re-fix the pay of the applicant was not invalidated and therefore the order dated 05.10.2016 rejecting the representation of the applicant was not touched, as the learned counsel for the applicant made a statement at the bar that he was not questioning the action of the respondents regarding the re-fixation of his pay.

6. Thus, the same very plea which the applicant is now raising before this Court has already been waived by him in his earlier O.A, the applicant is, therefore, barred by principle of res judicata as well as the principle of estoppels, and cannot be allowed to file an O.A.

again on the same cause of action, seeking same relief in view of bar under Order II Rule 2 CPC.

7. In the wake of above, the O.A. is dismissed being not maintainable. Though we are inclined to burden the applicant with heavy costs for filing a frivolous application and abusing the process of law, leading to wastage of the precious time of this Court, however, taking a lenient view we restrain ourselves from doing so. The O.A. is dismissed accordingly.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 14.12.2018

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