

Court No. - 20

Case :- WRIT - A No. - 7759 of 2023

Petitioner :- Lekhraj Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home
Dept. Lko. And 4 Others

Counsel for Petitioner :- Mohd. Ateeq Khan

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur,J.

1. Heard learned counsel for the petitioner and learned State Counsel for opposite parties.
2. Petition has been filed challenging orders dated 25.05.2023, 30.06.2023, 18.07.2023, 13.06.2023 and letters dated 09.05.2023 and 07.10.2022, which pertains to the fixation of pay scale of the petitioner and initiation of recovery proceedings in pursuance thereof.
3. It has been submitted by learned counsel for petitioner that petitioner has superannuated from services on 31.03.2023 from the post of Sub-Inspector whereafter aforesaid impugned orders have been passed refixing pay scale on the ground of incorrect fixation of pay scale in January, 2006. It is submitted that prior to issuance of impugned orders no show cause notice or opportunity of hearing was provided to petitioner. It is submitted that even otherwise, the impugned orders are against the dictum of judgment rendered by the Apex Court in the case of **State Of Punjab & Ors vs. Rafiq Masih (White Washer); [(2015) 4 SCC 334]** since benefits granted in the year 2006 ought to have been recovered in the year 2022.
4. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, particularly the impugned orders, it is quite evident that opposite parties did not advert at all to any show cause notice having been issued to petitioner or affording any opportunity of hearing to him prior to passing of impugned order. The aspect of applicability of judgment rendered by the Apex Court in the case of **State Of Punjab & Ors vs. Rafiq Masih (White Washer); [(2015) 4 SCC 334]** is also required to be taken into account.
5. In view of the aforesaid that the impugned orders have been passed without affording any opportunity of hearing to the

petitioners, the aforesaid impugned orders are **quashed** by issuance of a writ in the nature of Certiorari, granting liberty to opposite parties to pass fresh orders but only after affording opportunity of hearing to petitioner and adverting to the principle enunciated in the case of **State Of Punjab & Ors vs. Rafiq Masih (White Washer)**; [(2015) 4 SCC 334].

6. Consequently, petition succeeds and is **allowed** at the admission stage itself.

7. Parties to bear their own costs.

Order Date :- 10.10.2023

Arnima