

Court No. - 20

Case :- WRIT - A No. - 7905 of 2023

Petitioner :- Ram Prakash Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Panchayat Raj Vibhag Lko.
And 2 Others

Counsel for Petitioner :- Ashwani Kumar Singh, Ashok Kumar Yadava

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard learned counsel for petitioner and learned State Counsel appearing on behalf of opposite parties.
2. Petition has been filed challenging order dated 22.09.2023 whereby recovery has been directed from salary and post-retiral benefits(gratuity) of petitioner on the ground of incorrect fixation of pay in the year 2013.
3. It has been submitted that impugned order has been passed in a completely ex parte manner without affording opportunity of hearing to petitioner. It is further submitted that even otherwise alleged incorrect fixation of pay in the year 2013 is being sought to be corrected in the year 2023 which cannot be done. Learned counsel has placed reliance on judgment rendered by Hon'ble the Supreme Court in State of Punjab & others v. Rafiq Masih (White Washer) & others reported in (2015) 4 SCC 334.
4. Learned State Counsel has however submitted that recovery was required to be effected from petitioner in view of the fact that it creates a burden on the State Exchequer since benefits were wrongly admitted to petitioner.
5. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, particularly the impugned order, it is evident that impugned order has been passed without issuing any show cause notice to petitioner or even affording any opportunity of hearing. The

order as such is clearly against dictum passed by Hon'ble Supreme Court in the case of **State of Punjab & others v. Rafiq Masih**(supra).

6. In view of aforesaid, the impugned order dated 22.09.2023 along with order dated 09.06.2023 is quashed by issuing a writ in the nature of Certiorari at the admission stage itself granting liberty to opposite parties to pass fresh orders in the light of judgment of Hon'ble Supreme Court in the case of **State of Punjab & others v. Rafiq Masih**(supra) but only after affording opportunity of hearing to petitioner.

Order Date :- 12.10.2023

kvg/-