

Court No. - 20

Case :- WRIT - A No. - 8932 of 2023

Petitioner :- Harish Chandra Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Ayush
Anubhag I Govt. Lko. And 4 Others

Counsel for Petitioner :- Manish Kumar Rai, Pradeep Kumar Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard learned counsel for petitioner and learned State Counsel for opposite parties.
2. Petition has been filed challenging orders dated 01.11.2021, 28.03.2022 and 17.10.2023 whereby pensionary benefits of petitioner have been reduced in re-determination of his pay-scale. Recovery has also been directed in pursuance of such revision of pay-scale.
3. It has been submitted that petitioner superannuated from service on 30.06.2023 but as would be evident from a perusal of impugned orders, they have been passed without issuance of any show cause notice or even affording opportunity of hearing to petitioner. It is submitted that even otherwise the petitioner's case would be covered by judgment of Hon'ble Supreme Court in **State of Punjab & others v. Rafiq Masih (White Washer) & others** reported in (2015) 4 SCC 334.
4. Learned State Counsel appearing on behalf of opposite parties has refuted submissions advanced by learned counsel for petitioner with submission that impugned orders have been passed prior to petitioner's superannuation and even otherwise an incorrect pay-scale which was granted to petitioner has been corrected.
5. Upon consideration of submissions advanced by learned counsel for the parties and perusal of material on record, it is

evident from a bare perusal of impugned orders that it did not indicate any show cause notice or having afforded opportunity of hearing to petitioner prior to re-determination of petitioner's pay-scale and directing recovery.

6. The aspect of petitioner's case being covered by dictum of Hon'ble the Supreme Court in **State of Punjab & others v. Rafiq Masih**(supra) is also to be considered.

7. In view of aforesaid, impugned orders dated 01.11.2021, 28.03.2022 and 17.10.2023 are hereby quashed by issuance of a writ in nature of Certiorari at the admission stage itself granting liberty to opposite parties to pass fresh orders but only after affording opportunity of hearing to petitioner and advertent to his submissions in the final orders so passed. The concerned authority shall also take into account the judgment rendered by Hon'ble the Supreme Court in **State of Punjab & others v. Rafiq Masih**(supra) while passing the appropriate orders.

8. Resultantly, the petition succeeds and is **allowed** at the admission stage itself. There shall be no order as to costs.

Order Date :- 9.11.2023

kvg/-