

Court No. - 20

Case :- WRIT - A No. - 10044 of 2023

Petitioner :- Renu Bajpai

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Medical Health And Family Welfare Lko. And 3 Others

Counsel for Petitioner :- Vinod Kumar Shukla, Abhishek Mishra, Alok Kumar Pandey

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 order dated 04.10.2023 whereby an amount of Rs.4,34,653/- has been shown as requiring deduction from petitioner's pensionary benefits considering the fact that petitioner has superannuated on 30.06.2023.
3. It has been submitted that a perusal of impugned order will make it evident that opposite parties are seeking to make aforesaid recovery on account of alleged excess payment made to petitioner due to incorrect fixation of pay scale.
4. Learned counsel for petitioner has submitted that such a recovery even other wise cannot be made in view of decision rendered by Hon'ble the Supreme Court in **State of Punjab & others v. Rafiq Masih (White Washer) & others** reported in (2015) 4 SCC 334 since he fulfils the conditions indicated therein.
5. Learned State Counsel appearing on behalf of opposite parties has refuted the submissions advanced by learned counsel for petitioner with submission that since an incorrect pay scale was granted to petitioner, the same was examined and thereafter recovery orders have been issued.

6. Upon consideration of submissions advanced by learned counsel for the parties and perusal of material on record, it appears that no opportunity of hearing whatsoever has been provided to petitioner prior to passing of impugned order which even otherwise is a non-speaking one without indication as to how and when the alleged incorrect fixation of pay scale was accorded to petitioner.

7. In view of aforesaid, impugned order dated 04.10.2023 is hereby quashed by issuance of a writ in nature of Certiorari granting liberty to opposite parties to pass fresh orders with regard thereto but only after affording opportunity of hearing to petitioner and considering his reply in light of judgment rendered by Hon'ble the Supreme Court in **State of Punjab & others v. Rafiq Masih (White Washer)**(supra). The aforesaid dispute shall be concluded expeditiously by opposite parties, preferably within a period of two months from the date a certified copy of this order is produced before the authority concerned.

8. It is directed that till final decision on petitioner's reply, no recovery shall be effected from post-retiral benefits of petitioner.

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

Order Date :- 22.12.2023

kvg/-