

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.4927 of 2010**

Bajrang Singh, aged about 55 years, S/o Late Timan Singh R/o
Shaktinagar, Gevra Project, Gevra, District Korba.

---- Petitioner**Versus**

1. South Eastern Coal Field Ltd. Through Chairman cum Managing Director, Seepat Road, Bilaspur.
2. Chief General Manager SECL Gevra Area, Gevra, Distt.-Korba (CG)
3. Senior Manager (Personnel) Secl Gevra Area, Gevra, Distt.-Korba (CG)

---- Respondent

For Petitioner : Shri Parag Kotecha, Advocate
None for respondents.

Order On Board**18/09/2015**

The petitioner is challenging the action and order of respondent authorities in withdrawing the benefit of step-up of pay of the petitioner making it at par, firstly with the junior employee H. N. Sahu and then at par with another junior employee Nandu Singh.

2. Submission of learned counsel for the petitioner is that the petitioner was granted benefit of stepping up of pay strictly in accordance with the policy of removing anomaly where a senior employee is drawing less rate of wages than the junior employee in the same cadre. This was done after due consideration by a duly constituted anomaly committee, which led to passing of order of grant of stepping up of pay in favour of the petitioner vide order dated 17/18-06-2004

(Annexure P-2). However, after the petitioner was actually granted those benefits of stepping up of pay, which the petitioner continuously enjoyed for 6 years, by impugned order dated 24-08-2010 (Annexure P-4), the pay benefit earlier granted to the petitioner has not only been withdrawn, but recovery has also been directed.

3. Learned counsel for the petitioner submits that the impugned order is in violation of principles of natural justice, because vide impugned order, pay benefit earlier granted to the petitioner has been withdrawn, which has resulted in civil consequences, therefore, it ought to precede opportunity of hearing. Learned counsel for the petitioner next submits that the benefit was rightly granted to the petitioner in the year 2004 as per the scheme of N.C.W.A. dated 30-03-2004. Learned counsel for the petitioner further submits that in any case, even if it is found that the benefits of higher pay scale was granted to the petitioner due to inadvertent mistake, which is not based on any fraud or misrepresentation by the petitioner, whatever amount has already been paid to the petitioner for long six years could not be recovered as the petitioner is a low paid employee and recovery of such a huge amount from his salary would cause him severe financial hardship.

4. After hearing learned counsel for the petitioner, in the considered opinion of this Court, the impugned order dated 24-08-2010 (Annexure P-4) is liable to be set aside on the sole ground of violation of principles of natural justice.

5. The petitioner was granted higher pay way back in the year 2004, after duly deliberation of the committee called Anomaly Committee. The petitioner enjoyed higher rate of wages not for few months but for long six years. The decision of the respondents to withdraw the pay benefits of the petitioner,

therefore, ought to precede due and proper opportunity of hearing as consequence of withdrawal of financial benefits coupled with the direction for recovery, entails serious civil consequences.

6. Therefore, the impugned order dated 24-08-2010 (Annexure P-4) cannot be sustained and therefore, set aside. Salary of the petitioner as granted to him vide order dated 17/18-06-2004 (Annexure P-3), shall be restored and whatever amount already deducted, shall also be refunded to the petitioner by the respondents. It is, however, made clear that it would be open for the respondents to give proper notice to the petitioner herein and then decide the matter. It has to be clarified that the respondents shall first restore the petitioner to his original pay and refund the entire recovered amount and only after this being done, opportunity of show cause notice and hearing may be taken recourse to.

7. Accordingly, the petition is allowed.

**Sd/-
Manindra Mohan Shrivastava
Judge**