

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

CWP No.15083 of 2011  
Date of decision: 23.04.2015

Yog Raj Sahota

... Petitioner

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. J.S. Lalli, Advocate, for the petitioner.  
Mr. Nilesh Bhardwaj, DAG, Punjab.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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**ARUN PALLI J.** (Oral)

Writ in the nature of certiorari is prayed for so as to quash the letter dated 10.03.2011 (Annexure P7), vide which a recovery of ₹ 30,360/- was ordered to be made against the petitioner. And also, a writ in the nature of mandamus so as to direct the respondents to pass a speaking order assigning details of benefits of pay fixation in terms of the Government instructions issued from time to time by implementing the office order dated 12.01.2007 (Annexure P1), vide which the services of the petitioner were regularized w.e.f. 01.10.1980 instead of 26.10.1982, with all consequential arrears.

Pursuant to the notice issued by this court, District

Education Officer (E.E.), Fatehgarh Sahib, filed a reply by way

of affidavit on behalf of respondents No.1 to 4. The precise stand as set out in paragraph 1 of the preliminary objections of the written statement and germane to the relief being asked for read as thus:

“1. That the petitioner has no locus stand to file the present writ petition as the petitioner was appointed as JBT Teacher on 02.01.1978 and petitioner joined the service in District Jalandhar on 3.1.1978 and the service of the petitioner were regularized w.e.f. 26.10.1982 and further department vide its office order no. 7385-90 dated 12.1.2007 amended the date of regularization of the petitioner from 26.10.1982 to 1.10.1980 and the date of regularization was totally in accordance with the rules and regulations of the Department. The above said order was implemented by the department in August, 2008. It is pertinent to mention here that the Department took no time to implement the order of the regularization after completing the formalities. The pay of the petitioner was refixed in accordance with the new date of regularization of service vide order dated 12.1.2007. The petitioner was provided each and every benefit by the department by calculating his services from 1.10.1980. The petitioner was given the benefit of 8<sup>th</sup>, 16<sup>th</sup> and 24<sup>th</sup> years PROP after fixing the pay and calculating the arrears according to the new date of regularization i.e. 1.10.1980. The 24 years proficiency step up was given to the petitioner w.e.f. 1.10.2004 as claimed by the petitioner after calculating the arrears and fixing the pay according to the new date of regularization i.e. 1.10.1980 vide office order dated 3.10.2008. The pay of the petitioner was correctly refixed according to the pay scales existing at that time and according amended date of regularization of the services of the petitioner. The

department started to recover the amount from the petitioner @ Rs.2000/- per month when after calculating the arrears and refixing the pay of the petitioner according to the new date of regularization i.e. 1.10.1980, the department found that an amount of Rs.15731/- was paid in excess to the petitioner. Copy of calculation order/sheet is attached herewith as annexure R-1. The recovery by the department is fully justified in view of the excess amount paid to the petitioner. It is pertinent to mention here that the department had deducted Rs.15000/- in Installments out of the total amount of Rs.15731/- due towards the petitioner from his salary. Now the balance amount of Rs.731/- only is due towards the petitioner. The petitioner was called to the office of DPI (EE) Punjab, Chandigarh dated on 14.7.2011 for making enquiry regarding the recovery to be effected from him where he totally failed to justify his claim.”

Ex facie, originally the services of the petitioner were regularized w.e.f. 26.10.1982 and pursuant to the representation made by the petitioner, the department vide order dated 12.01.2007 (Annexure P1), altered the date of regularization of the petitioner from 26.10.1982 to 01.10.1980, in sync with the rules. The said order purported to have been implemented by the department in August, 2008. Accordingly, the pay of the petitioner was re-fixed and he was afforded all admissible benefits counting his services w.e.f. 01.10.1980. So much so, he was extended the benefits under ACP on completion of 8<sup>th</sup>, 16<sup>th</sup> and 24<sup>th</sup> years of service after fixing his pay and calculating the arrears. However, the recovery was

ordered as while calculating the arrears and re-fixing his pay as regards his altered date of regularization i.e. 01.10.1980, it was discovered that an amount of ₹ 15,731/- was paid in excess to the petitioner. Copy of the calculation sheet is placed on record as Annexure R1. So much so, out of the total amount of ₹ 15,731/-, an amount of ₹ 15,000/- has already been recovered in installments from the salary of the petitioner and now only ₹ 731/- is the balance i.e. due to be recovered.

The position as set out in paragraph 1 of the preliminary objections, as extracted above, has not been controverted by the petitioner either by filing any replication or otherwise during the course of hearing. All what is urged by learned counsel for the petitioner is that the calculations, as reflected in Annexure R1, on the basis of which an amount of ₹ 15,731/-, is purported to have been wrongly paid are apparently incorrect and do not justify the recovery.

That being so, learned State counsel submits that although the amount that has been worked out against the petitioner is rightly calculated and shown, but still in case the petitioner has any grievance, he is at liberty to move the competent authority in this regard and if indeed any such representation is made, the same shall be considered and decided in accordance with law.

In the wake of the position as sketched out above, learned counsel for the petitioner submits that the petition be disposed of as having become infructuous.

Ordered, accordingly.

April 23, 2015  
Rajan

**( Arun Palli )**  
**Judge**