

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Writ Petition No.10597 of 2014
Date of decision: 19.05.2015

Gurmail Singh

....Petitioner

versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the Digest? Yes/No

Present: Mr. Surinder Garg, Advocate for the petitioner.

Mr. Anil Sharma, Addl. A.G., Punjab.

DAYA CHAUDHARY, J.

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the action of the respondents vide which 15% pension is being deducted from the pension of the petitioner without giving any opportunity of hearing or without there being any order to the said effect. A further prayer has also been made in the present petition to direct the respondents to refund 15 % of the pension alongwith interest @18% p.a. from the date it is deducted till its realization and further to grant interest @ 7% p.a. on the delayed payment as per order dated 21.05.2012 passed by this Court in COCP No.632 of 2012.

Learned counsel for the petitioner submits that even in the order dated 21.05.2012 passed by this Court in COCP No.632 of 2012, nowhere it has been mentioned that any order was conveyed to the petitioner. Learned counsel also submits that an information was sought under RTI wherein it has been mentioned that no such order has been passed by the office.

Learned State counsel is not in a position to show as to whether any order has been passed and the same has been conveyed to the petitioner or not. However, learned State counsel submits that the reply to legal notice was given and order was in the knowledge of the petitioner.

Heard arguments advanced by learned counsel for the parties and have also perused the documents available on record.

A perusal of case file reveals that there is nothing on record which would show that any order has been passed or not and if passed, the same has been conveyed to the petitioner or not. One thing is clear that the recovery has been made without communication of any order to the petitioner which is contrary to the principles of natural justice.

Accordingly, the present petition is allowed with a direction to the respondents not to deduct the 15% of the pension and in case, the order has been passed, the same be conveyed to the petitioner. However, it is made clear that in case, no order has been passed, the petitioner be given liberty to put his case accordingly. The amount already recovered from the pension be refunded to the petitioner. The respondents are directed not to deduct the amount of pension any further. However, in case, the petitioner is still aggrieved by the action of the respondents in any manner, he is at liberty to avail appropriate remedy in accordance with law.

(DAYA CHAUDHARY)
JUDGE

May 19, 2015
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