

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

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**Civil Writ Petition No.21028 of 2011
Date of decision: July 24, 2015**

Y.P. Gupta

....Petitioner

versus

Uttari Haryana Bijli Vitran Nigam Ltd. 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. J.K. Goel, Advocate
 for the petitioner.

Mr. P.S. Poonia, Advocate
for the respondents.

DAYA CHAUDHARY, J.(Oral)

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of the impugned notice dated 05.02.2009(Annexure P-1) and also for issuance of a writ in the nature of mandamus directing the respondents to refund an amount of Rs.21,016/-, to grant pay scale of Rs.5450-150-6950-EB-150-8000 at Rs.7,550/- w.e.f. 01.01.1996 and to refix the pension as well as the pensionary benefits of the petitioner.

Learned counsel for the petitioner submits that a notice was issued by the respondent to the petitioner on 05.02.2009 mentioning therein

that in case, reply is submitted by the petitioner within a period of seven days, the same will be considered, failing which the recovery will be effected from the retiral benefits. Learned counsel also submits that in response to notice dated 05.02.2009, which was received by the petitioner on 12.02.2009, the petitioner has submitted reply on 16.02.2009 but without considering the reply to the notice, the pay of the petitioner was refixed and an amount of Rs.21,016/- was deducted.

Learned counsel for the respondents submits that the petitioner was to submit reply to the notice within a period of seven days but it was submitted after seven days and thereafter, the pay was refixed and recovery was effected.

Admittedly, the petitioner submitted reply to the notice on 16.02.2009. It was mentioned that notice dated 05.02.2009 was received by the petitioner on 12.02.2009 and immediately thereafter, reply to the notice was filed within a period of one week. The pay of the petitioner was refixed and recovery was effected but reply filed by the petitioner has not been taken into consideration. It is also the stand of the petitioner that after considering his reply, the reasons were to be mentioned as to why reply filed by the petitioner was not found to be satisfactory and how it was a case of recovery of pay which was fixed wrongly.

There is merit in the contentions raised by learned counsel for the petitioner as neither reply filed by the petitioner has been considered nor any opportunity of hearing has been granted to the petitioner and the recovery has been effected from the pension of the petitioner after re-fixing

his pay. The order is violative to principles of natural justice and as such, the same is liable to be set aside.

Accordingly, the present petition is disposed of with a direction to the respondents to consider the stand taken in the reply to the notice filed by the petitioner and pass a fresh speaking order after giving an opportunity of hearing to the petitioner. The necessary exercise be done within a period of two months from the date of receipt of copy of this order.

(DAYA CHAUDHARY)
JUDGE

July 24, 2015
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