

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

CWP No. 17802 of 2013 (O&M)

Date of Decision: 2.2.2015

Mohinder Singh

....Petitioner

Versus

Haryana Power Generation Corporation Limited and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Jagbir Malik, Advocate
for the petitioner.

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

RAMESHWAR SINGH MALIK J. (Oral)

Petitioner seeks quashing of orders Annexure P-9 and P-10, whereby pay of the petitioner was refixed and recovery was ordered after his retirement and that too, without issuing any show cause notice.

Notice of motion was issued and pursuant thereto, written statement was filed.

Heard counsel for the both the parties.

It is a matter of record and not in dispute that before passing the impugned orders Annexures P-9 and P-10, no show cause notice was issued to the petitioner. It is also not in dispute that the impugned orders were passed after retirement of the petitioner. Thus, the respondent authorities have not followed the basic principles of natural justice before passing the impugned orders. It is so said, because the impugned orders were bound to visit the petitioner with civil consequences.

Even if the respondent authorities were having jurisdiction to pass the impugned orders, still they were under legal obligation to issue show cause notice to the petitioner, so as to ensure meticulous compliance of the golden rule of audi alteram partem. However, since in the present case, respondent authorities have violated the basic principle of natural justice, the impugned orders cannot be sustained, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned orders have been found to be patently illegal, the same cannot be sustained and are hereby set aside. However, liberty is granted to the respondent authorities to proceed further for passing fresh order, if so advised, however, strictly in accordance with law.

Consequently, the respondent authorities are directed to release the withheld amount to the petitioner without any further loss of time and in any case within a period of two months from the date

of receipt of certified copy of this order. It is also directed that since the amount on account of retiral benefits of the petitioner has been illegally withheld by the respondent authorities, petitioner shall be entitled for the interest @ 9% per annum from the date when amount became due till the date of actual payment. If needful is not done within stipulated period, the petitioner shall be entitled for interest @ 12% per annum.

Resultantly, with the abovesaid observations made and directions issued, the instant writ petition stands allowed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

02.02.2015
AK Sharma