

IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH

CWP-19832-2013
Decided on:16.02.2015

Nand Kishore Petitioner

vs.

UHBVNL and othersRespondent(s)

CORAM HON'BLE MR. JUSTICE PARAMJEET SINGH

Present Mr.Naveen Daryal, Advocate for the petitioner.
Mr. P.S.Poonia, Advocate for the respondents.

PARAMJEET SINGH, J (ORAL)

The instant writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari quashing instructions dated 02.09.2005 (Annexure P1), by which benefit of breakage / shortage has been restricted to 5% of the existing cost of transformer and 20% of the total cost of the transformers oil despite the fact that there is no negligence on the part of the petitioner and also for quashing the order dated 24.01.2013 (Annexure P5), whereby recovery of Rs.46,762/- has been ordered and notice dated 30.07.2013 (Annexure P6), whereby recovery of Rs.38,331/- has been ordered.

The brief facts of the case are that the petitioner has retired from the office of respondent on 31.10.2012 as a Junior Engineer. During the subsistence of his services, show cause notices were issued to the petitioner for recovery of Rs.85,093/- (Rs.46762/- + Rs.38,331/-) and a consolidated notice (Annexure P4) for recovery of Rs.99,751/- was also issued, which are now under challenge before this Court.

The case set up by the petitioner is to the effect that the said

recovery has been effected without holding an inquiry, therefore, the recovery is against the Government Instructions and the Rules applicable to the department. It has also been averred that the notice does not mention any detail of the amount and how he is responsible for the said amount mentioned in the impugned notices.

Upon notice, respondents appeared and took a stand that petitioner has caused loss / shortage on account of missing / damaged parts for the amount in question and the same is recoverable from him. Before effecting the recovery, show cause notice was given to him and opportunity was afforded to file reply. The amount has rightly been deducted from the retiral benefits of the petitioner.

I have heard the learned counsel for the parties and considered the submissions made by them.

Admittedly, the petitioner has retired. Only a show cause notice was issued to which the petitioner filed reply but no inquiry was held nor any details were mentioned in the notice as to how the money has been calculated. In an identical case, learned Single Judge of this Court in CWP-2768-2009 titled Dhan Singh v. Uttar Haryana Bijli Vitran Nigam Ltd. And others decided on 11.03.2010 has held that without holding an appropriate inquiry and giving an appropriate opportunity of hearing to the delinquent, deduction cannot be made. The case in hand is squarely covered by the judgment passed by the learned Single Judge in the aforesaid writ petition.

Accordingly, the impugned notices / orders are set aside and the department is directed to reimburse the amount along with interest @ 9% per annum within a period of two months. However, they will be at liberty

to constitute an inquiry and proceed in accordance with law as per Rule 2.2(b) of the Punjab Civil Services Rules.

Writ petition is allowed in the above terms.

16.02.2015

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**(PARAMJEET SINGH)
JUDGE**