

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

**CWP No.24346 of 2015
Date of decision:19.11 2015**

Balwinder Singh ... Petitioner

Versus

State of Punjab & ors. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ajay Pal Singh Rehan, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

The petitioner has been reverted from the post of Head Teacher to the lower post solely for the reason that the petitioner was arrayed as respondent No.3 in CWP No.25453 of 2014 titled “Sukhdev Singh & ors. vs. State of Punjab & ors.”. That writ petition was disposed of on December 12, 2014 by the learned Single judge commanding the Director Primary Education-respondent No.2 to look into the matter, consider the grievance of the petitioner raised vide his representation dated June 2, 2014 and decide the same at an early date by passing an appropriate order strictly in accordance with law and within a period of three months. However, in making the order the Court did not express any opinion on the merits of the case lest it should prejudice the rights of either of the parties. Sadly, the impugned order has been passed without hearing the petitioner and therefore the principles of natural justice have been breached for which reason the impugned order cannot be sustained

in the eyes of law and has to be set aside. It was wholly unfair on the part of the decision-maker in not hearing the petitioner and to consider his point of view.

Notice of motion.

On the asking of Court, Mr. Inqulab Nagpal, AAG, Punjab, accepts notice on behalf of respondents No.1 to 3 and waives service on them. Service on private respondents No.4 to 9 is dispensed with since this order will not prejudice them since it is limited to preserve the rule of *audi alteram partem* and the cherished principle that no man should be condemned unheard or told the reason why the claim is not justified so that he can reconcile himself with his fate.

Learned counsel for the petitioner submits that the impugned order has been passed to avoid contempt proceedings pending in this Court.

Without going into that question or expressing any opinion on the merits of the case, this petition is allowed. The impugned order dated August 21, 2015 (Annexure P-5) is quashed. The District Education Officer (Elementary Education), Gurdaspur, is directed to pass a fresh order in accordance with law after affording an effective opportunity of hearing to the petitioner on his representation to be made stating his case clearly for consideration within one month. Needless to say that the order to be passed will contain cogent reasons for the findings arrived at it would clearly disclose the process of reasoning which has weigh with the decision-maker in the respondent-department to grant or deny the relief.

The result of the exercise be recorded in writing and be duly

communicated to the petitioner without delay within 7 days of the final decision. The fresh decision be taken within 6 months from the date of receipt of a certified copy of this order.

(RAJIV NARAIN RAINA)
JUDGE

19.11.2015
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