

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1498 of 2014

Date of Decision:- 14.07.2015.

Bhullan Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: None for the appellant.

Mr. Aman Bahri, Additional A.G. Punjab.

SURYA KANT, J. (ORAL)

1.) The appellant is aggrieved by the order dated 06.02.2014 passed by learned Single Judge whereby his writ petition has been allowed in part to the extent that recovery sought to be effected has been set aside but refixation of his pay and pension has been upheld. The appellant is also aggrieved by order dated 18.07.2014, dismissing his review application.

2.) The facts are not in dispute. The appellant joined the Department as an Agriculture Inspector and he retired from the post of Soil Testing Officer on attaining the age of superannuation w.e.f. 31.12.1998. Much after retirement, the appellant was granted the

benefit of financial upgradation on notional basis on completion of 4, 9 and 14 years of regular service vide order dated 28.12.2012. His pension was also suitably revised pursuant thereto, vide order dated 04.06.2013.

3.) Thereafter, the appellant was served with an order dated 08.08.2013 whereby his pay was refixed and reduced from ₹ 12750 to ₹ 12375 retrospectively w.e.f. 01.01.1996. This order was purportedly passed in compliance of order dated 29.04.2013 of the Director Agriculture, Punjab. Consequential recovery was also ordered to be effected.

4.) The aggrieved appellant approached this Court and the learned Single Judge vide order under appeal has set aside the recovery part but refixation of pay and pension of the appellant has been upheld.

5.) Having heard learned State counsel in support of the order passed by learned Single Judge or the action challenged by the appellant in the writ petition, we are of the considered view that the learned Single Judge ought to have further interfered in the matter. The appellant admittedly retired from service on 31.12.1998. The respondent-Authorities themselves granted him the financial upgradation of 4, 9 and 14 years regular service vide order passed in December, 2012. Thereafter, the impugned order was passed finding an alleged error in the pay fixation of the appellant way back from 01.01.1996. Since the said order visits the appellant with civil

consequences, the Authorities ought to have complied with principles of natural justice. No opportunity was given to the appellant. He was not heard before reducing his pay or pension. No reason whatsoever has been assigned in the communication dated 08.08.2013. The foundation of that order, namely, the Director's order dated 29.04.2013 appears to have not even conveyed to the appellant. It is, thus, a case where the appellant has been condemned unheard.

6.) The Authority nowhere alleges that the appellant ever concealed any fact, misled them or prompted them to pass an erroneous order in his favour.

7.) Taking into consideration the totality of the facts and circumstances, moreso when the recovery part has already been quashed by the learned Single Judge, we allow this appeal in part; modify the order of the learned Single Judge and direct respondent No.2 to issue a show cause notice to the appellant and upon hearing through representation as well as in person (if so requested) to pass a speaking order. If the Authorities accept the appellant's plea re : fixation of his pay as on 01.01.1996, the impugned order/decision shall be deemed to have been set aside and in that case, the appellant shall be entitled to all the consequential benefits. However, if the Authorities reject his claim, for which they shall be required to pass a reasoned order, there shall be liberty to the appellant to challenge such order before an appropriate forum. The needful shall be done within a period of four months from the date of certified copy

of this order.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

July 14, 2015.
sandeep sethi