

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.24110 of 2012 (O&M)

Date of Decision: 12.07.2016

Suresh Kumar and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Naveen Daryal, Advocate,
for the petitioners.

Mr. Ravi Pratap Singh, AAG., Haryana.

TEJINDER SINGH DHINDSA, J.(ORAL)

The pay of the petitioners who were serving as Conductors under the Haryana Roadways Department was revised vide order dated 07.01.2010 by the General Manager, Haryana Roadways, Karnal at Annexure P-1. Subsequently, order dated 18.05.2012 has been passed in terms of which pay of the petitioners has been refixed.

Grievance of the petitioners is that their salary had been reduced by the respondent Department and recovery has been directed with effect from 01.01.2006.

Upon notice of motion having been issued, a written statement of the General Manager, Haryana Roadways, Karnal has been filed and a categorical stand has been taken that in the month of July, 2006 petitioners were to be granted annual increment but inadvertently they were granted two increments instead of one increment and as such their pay was fixed at Rs.8040 +2400=10440/- as on 01.07.2006. Upon this mistake having been noticed, the situation has been rectified and the pay of the petitioners has been refixed at Rs.7740 +2400=10140/- as on 01.07.2006 and recovery of

the excess amount from the petitioners has been directed.

It may be apposite to notice that while issuing notice of motion on 06.12.2012 further recovery in pursuance to the impugned refixation of salary was directed to be stayed.

During the course of hearing today, it has gone uncontroverted that prior to exercise of refixation, the petitioners were not granted any opportunity of hearing and were not served with any notice.

It is by now well settled that principles of natural justice have to be complied with prior to passing of any order which has adverse civil consequences.

In view of the above, the action of the respondent Department in refixing the pay of the petitioners to a lower level and without grant of opportunity of hearing to them cannot sustain.

Petition is allowed. Refixation of the salary directed by respondent Department by withdrawing the benefit of increment is held to be bad in law being violative of the principles of natural justice.

Matter is remanded back to respondent No.3 to take a fresh decision on the issue of refixation of pay of the petitioners and by passing an order fresh after grant of opportunity and after serving a notice upon the petitioners.

Let fresh order be passed in the matter within a period of four months from the date of passing of this order after complying with the principles of natural justice.

Disposed of.

12.07.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**