

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

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**CWP-16994-2016 (O&M)
Date of decision: 16.09.2016**

Karam Singh

....Petitioner

Versus

Union of India and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Rajeev Anand, Advocate for the petitioner.

Mr. Anil Chawla, Advocate for UOI.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has challenged the order dated 07.04.2016 (Annexure P12) and 03.08.2015 (Annexure P10) by which his pay has been refixed which is a disadvantage to him. He has also questioned Clause 2 in Annexure P2 dated 19.05.2009.

2. Short question for consideration is before cancellation of 2nd MACP granted to the petitioner on 08.05.2015 whether he has been heard or not. Admittedly, the petitioner was not heard before passing Annexure P10 dated 03.08.2015 by which 2nd MACP granted has been cancelled. Thus, the petitioner is aggrieved.

3. Learned counsel for the petitioner submitted that impugned Annexure P10 has been passed without issuing notice to him. Even

assuming that Annexure P2 dated 19.05.2009 is to modify the Assured Career Progression Scheme by which petitioner's right has been taken away for the purpose of grant of 2nd MACP which is disadvantage to the petitioner. He has to be heard in the matter. On this score only impugned action is liable to be set aside.

4. Learned counsel for the respondent submitted that Annexure P-10 is in accordance with the modified Assured Career Progression Scheme dated 19.05.2009. Even assuming that if a notice is given to the petitioner, he cannot derive any benefit since the impugned action is in terms of order dated 19.05.2009. Therefore, question of hearing to the petitioner to seek his say in the matter of modifying the 2nd MACP granted to the petitioner to the disadvantage to him is not permissible.

5. Heard learned counsel for the parties.

6. It is true that petitioner has been granted 2nd MACP on 08.05.2015 and the same is sought to be cancelled pursuant to the modified Assured Career Progression Scheme dated 19.05.2009. By virtue of impugned action, the petitioner's pay would be reduced drastically which is civil consequences. Therefore, without hearing the petitioner the impugned actions are illegal and arbitrary. Without hearing the petitioner, the respondents cannot pass disadvantage order against the petitioner. In other words, impugned action is behind the back of the petitioner. It is impermissible. The Supreme Court held that even administrative decisions are to be passed after due following principle of natural justice. Therefore, the impugned orders dated 07.04.2016 (Annexure P12) and dated 03.08.2015

(Annexure P10) are set aside.

7. This order will not come in the way of taking further action by the respondents after giving notice to the petitioner.

16.09.2016
pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons	Yes/No
Whether Reportable:	Yes/No