

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

CWP No. 3691 of 2012 (O & M)

Date of decision: 27.01.2016

Om Parkash

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: None for the petitioner.

Mr. L.S. Virk, Addl. A.G., Punjab.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 3691 of 2012

Application for placing on record replication is allowed, subject to all just exceptions.

The same is taken on record.

CWP No. 3691 of 2012

The petitioner challenges the order dated 24.01.2012 (Annexure P-2) whereby, the salary of the petitioner has been fixed and recovery has been ordered on the basis of the said re-fixation by respondent no. 3.

The case of the petitioner is that he was appointed as Steno Typist on 26.11.1982 and was regularized with effect from the said date. On account of revision of pay scale, his pay has been correctly fixed as per the instructions of the Government but in view of the impugned order, the recovery was being effected and the re-fixation has been done. A specific

avermment has been made in para no. 17 that no notice has been issued to him before refixation was done and the order is violative of the principle of natural justice.

The State, on the other hand, has justified the recovery on the ground that excess payment had been made and that there is an undertaking given by the petitioner that if any discrepancy arises, he will repay/get recovered/make adjustments from the pay/pension of the excess amount. It has not been denied that the petitioner was not issued any show cause notice while refixing his pay and ordering recovery. A perusal of the impugned order would go on to show that with effect from 01.11.2006, his pay was reduced from ₹17,380 to ₹16,380/- and resultantly thereafter also.

Accordingly, this Court is of the opinion that before any adverse order is to be passed, the petitioner had to be put to notice of the adverse consequences which would follow and whether the action of the State was justified. Accordingly, the order cannot be sustained on this ground.

Resultantly, the impugned order dated 24.01.2012 (Annexure P-2) is quashed. However, the State is given liberty to issue show cause notice to the petitioner and take necessary action after hearing the petitioner. Needful be done within a period of 3 months from the date of receipt of certified copy of the order.

Writ petition stands allowed accordingly.

27.01.2016
shivani

(G.S. SANDHAWALIA)
JUDGE