

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision:08/07/2016.

Davinder Singh

.....Petitioner

VS

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.RS Bajaj,Advocate and
Mr.Pranav Handa,Advocates for the petitioner.

Mr.Vaibhav Sharma,DAG Punjab for respondent no.1.

Mr.DS Patwalia,Senior Advocate assisted by
Mr.Kanan Malik,Advocate for respondents 2 to 4.

Jaswant Singh,J(Oral)

Petitioner was appointed as **Electrician** on **25.2.1988** on
ad hoc basis in the Doaba Cooperative Milk Producers Federation Limited, a
registered Society engaged in dispensation of milk and milk products.
Petitioner was subsequently appointed on regular basis as **Junior Mechanic
Electrical** w.e.f. **5.1.1990**. He was granted the benefit of ad hoc service
towards increments long time back. It transpires that employer realising that
such benefit could not be granted in the light of definition of employee
under Rule 2(f) of the Cooperative Milk Producers Union Employees
Service (Non-Common Cadre) Rules, 1996, straightway proceeded to re-fix
his pay in the light of Audit Report and effected recovery. Hence the
present writ petition.

At the time of hearing learned counsel for the respondents very

fairly concedes that employer has re-fixed petitioner's pay w.e.f. 1.1.1990

and on subsequent pay revisions and effected recovery without following the principle of natural justice as neither any show cause notice was issued nor was petitioner afforded opportunity to explain. In view of the settled principle of law that no action can be taken visiting any employee with civil consequences without following principle of natural justice, the impugned action is thus unsustainable.

In view of the above, present writ petition is allowed and impugned order dated **15.11.2014(P-4)** is quashed. However, the respondents would be at liberty to take appropriate action in accordance with law.

08.07.2016
joshi

(Jaswant Singh)
Judge