

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2412 of 2016

Date of Decision: 08.02.2016

Surinder Singh

... Petitioner

Versus

Punjab State Power Corporation Ltd.
and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Virinder Kumar Shukla, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. The petitioner is a retired person superannuating on December 31, 2014. Recovery being made from his pension after retirement and without passing an order in writing or offering an opportunity of hearing to the petitioner before making recovery is the grievance which has brought forth this petition. For breach of principles of natural justice, the recovery is held to be illegal. The explanation of the petitioner has not been called and an ex parte decision has been taken resulting in revised last pay certificate (P-3) where the rule of *audi alteram partem* is violated and a complaint is made before the Writ Court praying for intervention.

2. To pass this order at the threshold it would neither be expedient nor necessary to issue summons to the respondent to receive their point of view since the breach *ex facie* causes prejudice to the petitioner without notice issued to him. Therefore, the case would have to be remanded at the first hearing. The respondent would pass a fresh order after hearing the

petitioner. No further recovery of money be made from today till the fresh order is passed. The Administrator would remain guided by the law laid down in **Chandi Prasad Uniyal and others v. State of Uttarakhand and others**, (2012) 8 SCC 417 and **State of Punjab and others v. Rafiq Masih (White Washer) etc.**, AIR 2015 SC 696 cases on recovery of money from pensioners.

3. A positive finding would be returned by the decision maker with regard to subject matter set out in the memos dated July 07, 2015 (P-5) and the reply to the notice of demand for justice dated October 09, 2015 (P-7) especially with respect to para.4 thereof on how they impact the recovery from pension and its sustainability. In case, the recovery is found justified in law and is in consonance with the prevailing rules then the order to be passed may be operated from the date of decision after recording reasons. However, if the recovery is inadmissible then the money already recovered would be returned to the petitioner with interest at the rates of statutory interest on FDRs currently prevailing in Nationalized Banks calculated from the date of first partial recovery effected from the pocket of the petitioner. By way of a direction it is ordered that the exercise be completed within two months from the date of receipt of a certified copy of this order.

4. Accordingly, the petition stands disposed of with the above observations and directions without expressing an opinion on the merits of the case which fall in the domain of the recovering authority in the first instance.

(RAJIV NARAIN RAINA)
JUDGE

08.02.2016

manju