

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 26030 of 2016

Date of decision: 15.12.2016

Sandeep

... Petitioner

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. Sushil Jain, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

Heard. The petitioner was punished with an order withholding of two annual increments with cumulative effect following penalty inflicted as a result of departmental proceedings on proof of major misconduct. By an order of the District Elementary Education Officer, Panipat, the period of suspension pending inquiry was treated as service period and the service benefits were allowed vide order dated April 29, 2015. The order has been addressed to the Principal, Government Senior Secondary School, Chandoli but has not been endorsed to the petitioner or conveyed and therefore, it cannot be said to be an order of which the petitioner can rest his case or take benefit of since it is settled proposition of law that an order of the Government which is not communicated is not binding and has no legal effect as not settle rights finally. These are inter office correspondence. By mistake the petitioner was granted two increments which had been withdrawn permanently by way of penalty and the Government has rectified its own mistake by withdrawing the benefit mistakenly given. In withdrawing such benefit illegally granted, the principles of natural justice

are not required to be adhered to as the claim is illegal. Therefore, no notice or hearing was required to be given and such an illegal benefit covered by the penalty order can be withdrawn unilaterally at any time on discovery of mistake. If the prayer to retain undue financial benefit of the very two annual increments buried under penalty is allowed it would result in scoring out the punishment and wiping it off. There is a court recognised rule against unnatural expansion of natural justice to satisfy an empty formality, applicable to this case.

No merit. Dismissed.

Having argued the matter on merits with little success, the counsel pleads for a direction for decision on appeal of which he is not sure if one is filed. The appeal, if any pending, shall be treated as closed in view of the declaration of law in this order, as it would be a sheer waste of time of the administration.

(RAJIV NARAIN RAINA)
JUDGE

15.12.2016
monika

Whether speaking/reasoned *Yes*

Whether reportable *No*