IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8786 of 2014
Date of decision: 11.04.2016

Rajinder Singh ....Petitioner(s)

Versus

Punjab State Power Corporation Ltd. and others ...Respondent(s)

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

Present: Mr. C.M. Chopra, Advocate,
Mr. S.K. Rattan, Advocate,
for the petitioners.

Mr. Pawan Attri, Advocate,
for Mr. Mukul Aggarwal, Advocate,
Mr. Y.P. Khullar, Advocate,
Mr. Manoj Chadha, Advocate,
for Mr. Amit Aggarwal, Advocate,
for the respondents.

G.S.SANDHAWALIA, J. (Oral)

The present order shall dispose of 4 writ petitions i.e. CWP Nos. 8786, 8758, 8837 and 19260 of 2014 as common questions of facts and law are involved in all the writ petitions. For reference, ***CWP No. 8786 of 2014, Rajinder Singh vs. Punjab State Power Corporation Ltd. and others*** is being taken up.

The petitioner seek the quashing of the action of the respondents whereby, the pay of the petitioner has been reduced without passing any order and without affording any opportunity and for directions to restore the pay and refund the recovered amount alongwith interest @ 15% per annum.

The pleaded case of the petitioner is that the petitioner was appointed as a T.Mate on 24.03.1978 in Mukerian Hydel Project, Talwara which was under the administrative control of the Irrigation Department and

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was being financed by the erstwhile Punjab State Electricity Board, now called Punjab State Power Corporation Ltd. Similarly, the administrative control of Anandpur Hydel Project was also with the Punjab Irrigation Department and the Finance Department both. The administrative control was handed over of both the projects to the Board as per notification dated 06.07.1993 and the petitioner's services were regularized w.e.f. 30.04.1995. The petitioner was promoted as Junior Meter Reader on 12.06.2000 and his pay was accordingly fixed at ₹4,300/- on 13.06.2000 (Annexure P-4). Annual grade increments were given from time to time but the pay was reduced from October, 2013 without passing any order and recovery was being effected. The pay of the petitioner had been reduced and recovery of ₹48,580/- had been calculated against him. There was no misrepresentation or fraud on the part of the petitioner and, therefore, recovery was sought to be challenged.

The defence of the Corporation, in its written statement, was that the petitioner was appointed as a Junior Meter Reader from T.Mate, which the petitioner had joined on 12.06.2000. However, inadvertently, two promotional increments were given to the petitioner whereas, the post of the Junior Meter Reader is treated as a induction post in the department. Accordingly, the petitioner was not entitled for the extra increment and, therefore, recovery sheet was prepared. Extra increments had been taken and the amount was recoverable and the petitioner had been duly informed orally and the recovery sheet had been prepared with the knowledge and consent of the petitioner.

Thus, from the above pleadings, it would be clear that no formal order of recovery has been passed and the respondents had never issued show cause notice to the petitioner to put him on caution that his pay

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was liable to be reduced and the benefit granted earlier is to be withdrawn. It is not disputed that the employer has a right to refix the pay wherein, excess amount is being paid, for which the employee is not as a matter of right entitled, to the monetary benefits for all times to come.

In such circumstances, the action of the respondents as such cannot be justified which is not only violative of principles of natural justice but also totally arbitrary.

Accordingly, the present writ petitions are allowed with the direction that the amount so recovered shall be refunded to the petitioners alongwith 8% interest within a period of two months from the date of receipt of certified copy of the order. However, it will be open to the respondents to issue show cause notice to the petitioners and put them to notice as to how and why their pay is to be reduced. The petitioner will be at liberty to reply to the show cause notice and thereafter, a decision be taken within a period of two months. The respondents shall also take into account the observations made in ***State of Punjab and others vs. Rafiq Masih (White Washer) and others, 2015 (1) RSJ 177*** and the instructions issued by the State Government wherein, amounts which have been received for a period in excess of 5 years before the order of recovery is issued cannot be recovered.

25.04.2016 (G.S. SANDHAWALIA)
shivani JUDGE

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