

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8914 of 2014
Decided on : 11.04.2016

Surinder Pal Singh

... Petitioner

Versus

Punjab State Power Corporation Ltd. & others

... Respondents

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

Present : Mr.C.M.Chopra, Advocate, for the petitioner.

Mr.Manoj Chadha, Advocate, for
Mr.Amit Aggarwal, Advocate, for respondents No.1 to 4.

G.S. Sandhawal, J.

Petitioner seeks quashing of the action of the respondents vide which, the pay of the petitioner has been reduced, without passing an order and without affording any opportunity of hearing. A writ of mandamus is, accordingly, prayed for, directing the respondents to refund the amount along with interest.

It is the case of the petitioner that he was promoted as Junior Meter Reader on 12.06.2000 and the department had reduced his pay and calculated recovery to the extent of Rs.1,44,000/- and initiated the recovery from his pay @ Rs.5000/- per month, without giving any opportunity of hearing.

The defence of the respondents, in their reply, is that audit objection had been raised that the petitioner had been

appointed as Junior Meter Reader on 12.06.2000 and not promoted. The Corporation had refixed his pay and after refixation, Rs.1,38,467/- was calculated as excess amount on account of withdrawal of increments wrongly granted to the petitioner for the period 12.06.2000 to 30.09.2013.

Petitioner had given representation dated 01.04.2014 which was replied on 02.06.2014 and he had been, accordingly, informed that he was not entitled to get 2 promotions and his salary had been refixed and checked by the Audit Department. Therefore, the amount was to be recovered given from June, 2000 to June, 2013. The petitioner was, accordingly, given an opportunity to submit in writing within 3 days, failing which, the amount was to be recovered from his salary, as per the instructions.

The process which was followed by the respondent-Corporation cannot be justified, in any manner. The flouting of the principles of natural justice are apparent on the face of the record. If there was a dispute regarding the fixation of pay, a show cause notice was the minimum that the Corporation could have done, before proceeding ahead. By making the deductions at the back of the petitioner from his pay packet, this methodology cannot be approved, in any manner. The petitioner's serious civil consequences were involved and he was required to be associated and a show cause notice should have been issued to

him and thereafter, any order could have been passed. Reliance upon the memo dated 02.06.2014 (Annexure R5) would also go on to show that it was only issued after notice of motion was issued by this Court on 09.05.2014 and the recovery of the amount in question had been stayed. That the respondent-Corporation had woken up and started giving a post-decisional hearing after having already started effecting recovery. It is not disputed that the employer always has a right to re-fix the pay in case it is found correct but this has to be done by following a proper procedure, which has not been done in the present cases.

Resultantly, the present writ petition is allowed. Respondents are directed to refund the entire amount which has been recovered from the petitioner, firstly, within a period of 2 months from the receipt of a certified copy of this order. Thereafter, it will be open to them to issue a show cause notice to the petitioners as to on what basis the pay was sought to be reduced. Similarly, it would be open to the petitioner to object to the said proposal by filing written reply. On the receipt of the said reply, respondents will be free to take action, thereafter, within a period of 3 months.

APRIL 11, 2016
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(G.S. SANDHAWALIA)
JUDGE