

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8915 of 2014

Mohan Singh

... Petitioner

Versus

Punjab State Power Corporation Ltd. & others

... Respondents

CWP No.8812 of 2014

Hari Singh

... Petitioner

Versus

Punjab State Power Corporation Ltd. & others

... Respondents

Decided on : 11.04.2016

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

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

Mr.Manoj Chadha, Advocate, for
Mr.Amit Aggarwal, Advocate,for the respondents.

G.S. Sandhawalia, J. (Oral)

This judgment shall dispose of 2 cases, bearing CWP-8915 & 8812-2014, involving common questions of law and facts. However, to dictate orders, facts have been taken from CWP-8915-2014 titled *Mohan Singh Vs. Punjab State Power Corporation Ltd. & others.*

The grouse of the petitioner is that his pay has been reduced without passing any order and without affording any opportunity of hearing. Resultantly, a writ of mandamus is sought to restore the pay of the petitioner and to refund the recovered amount with 15% interest.

It is the case of the petitioner that he was appointed as Work-Charge Fitter on 14.09.1987 in the Mukerian Hydel Project, Talwara. Thereafter, he was regularized as Helper on 27.03.1997 and promoted as Junior Meter Reader on 12.06.2000. His pay was, accordingly, fixed at Rs.4775/- per month as on 05.07.2000 (Annexure P3), which was, however, reduced w.e.f. the said date and entry was made in the service book after withdrawal of the increments. Resultantly, a recovery of Rs.1,38,616/- has been fixed against the petitioner, however, without passing any order and without giving any opportunity of hearing and the amount has been deducted from his salary @ Rs.5000/- per month. Reference is made to Annexures P5 & P6. In this context, he had made representations but the same have not borne any fruit. Resultantly, the petitioner has approached this Court.

In the affidavit filed by the respondent-Corporation, the defence taken is that there was an objection raised by the Audit Department regarding the fixation of the pay which was fixed at Rs.4450/-. Resultantly, an amount of Rs.1,38,616/- was calculated as excess amount paid to him from 05.07.2000 to

30.09.2013. The petitioner's representation dated 19.03.2014 was replied and he was asked whether he had anything to say and he could also submit in writing within 7 days, otherwise, the amount would be recovered, as per directions.

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 petitions are allowed. Respondents are directed to refund the entire amount which has been recovered from the petitioners, 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 petitioners 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 2 months.

APRIL 11, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE