

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 447 of 2008**

1. Shiv Kumar Dhruv, S/o Mukhiram Dhruv, aged about 37 years, R/o Block 12, Room No.247, Vijeta Complex, Near Rajendra Nagar, Raipur, District Raipur (CG).
2. Nisar Ahmad Khan S/o. Late I.A. Khan, aged about 47 years, R/o Sector - 1, I-32, Kashiram Nagar, Raipur (C.G)

---- Petitioner**Versus**

1. State Of Chhattisgarh, through Special Secretary, Department of Planning, Economic and Statistics, Mantrayalay, DKS Bhawan, Raipur (CG).
2. Director Directorate Of Economic And Statistics, Chhattisgarh, Koushalya Bhawan Parisar, Bairan Bazar, Raipur, Distt. Raipur (C.G)
3. Secretary State Planning Board, Chhattisgarh, Raipur, Distt. Raipur (C.G)

---- Respondent

For Petitioners
For Respondent/State

Ms. Fouzia Mirza, Advocate
Shri Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****09/11/2017**

1. Petitioners would assail the order Annexure – P/5 dated 14-1-2008 by which the Directorate of Economics and Statistics, Chhattisgarh, has cancelled the order dated

28-2-2006 by which the petitioners were promoted as Assistant Statistical Officer from the post of AG III.

2. It is argued that the order impugned has been passed in gross violation of principles of natural justice and the stand taken in the return on the basis of letter of the Directorate dated 20-2-2004 (Annexure – R/2) has no application in the facts and circumstances of the present case, as the petitioners were promoted after competing in the limited competitive examination, which was held on the basis of letter dated 28-12-2004.
3. Learned counsel appearing for the State, per contra, would support the impugned order.
4. Having noted the submission made by the learned counsel appearing for the petitioners, this Court is presently not considering the same on merits because this Court intends to allow the writ petition only on the ground of violation of principles of natural justice for the reason that it is well settled proposition of law that no order causing civil consequences can be passed, without observing the rules of natural justice.

5. The Supreme Court in **State of Punjab & Ors. v. Senior Vocational Staff Masters Association & Ors.** (AIR 2017 SC 4072) held thus in paras 20 & 21 :

20) It is by now well settled that no orders causing civil consequences can be passed, without observing rules of natural justice as it was held in *Bhagwan Shukla v. Union of India & Ors.* (AIR 1994 SC 2480) wherein it was held as under:

“3. We have heard learned counsel for the parties. That the petitioner's basic pay had been fixed since 1970 at Rs, 190 p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs.181 p.m. from Rs.190 p.m. in 1991 retrospectively w.e.f. 18.12.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show-cause against the reduction of his basic pay. He was not, even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There, has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard.

Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25.7.1991, which was impugned before the Tribunal could not certainly be sustained and the Central Administrative Tribunal fell in error in dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the order of the Central Administrative Tribunal dated 17.9,1993 as well as the order (memorandum) impugned before the Tribunal dated 25.7.1991 reducing the basic pay of the appellant From Rs.190 to Rs.181 w.e.f. 18.12.1970.”

21) The order dated 16.07.2003 came to be made behind the back of vocational masters without following any procedure known to law. Thus, there has been a flagrant violation of the principles of natural justice and the respondents had been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be

passed without putting the concerned to notice and giving him a hearing in the matter.

6. In view of the above, the impugned order is set aside only on the ground of violation of principles of natural justice reserving liberty in favour of the respondents to proceed afresh in the matter and pass orders, if they so desire, after giving show cause notice and proper opportunity of hearing to the petitioners. In such event, the authority shall consider the petitioner's reply objectively including the submission of learned counsel for the petitioners, noted above in this order.
7. In the result, the writ petition is allowed to extent indicated above. No order as to costs.

Sd/-

Judge
Prashant Kumar Mishra

Gowri