

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5589 of 2017**

- Deepak Tiwari S/o Shri G. S. Tiwari Aged About 52 Years Assistant Professor, D. P. Vipra College Bilaspur, R/o Tiwari Chhal, Rajendra Nagar, Bilaspur, District Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through: The Secretary To The Govt. Of Chhattisgarh, Department Of Higher Education Mantralaya, Mahanadi Bhawan, Naya Raipur, Police Station Rakhi, Raipur, Chhattisgarh.
2. The Governing Body (Constituted Under Statute 28 Of College Code Of C. G. Vishwavidyalaya Adhinium 1973 Of D. P. Vipra College), Through : The Secretary To The Governing Body, Office Of Principal, D. P. Vipra College, Old High Court Road, Bilaspur, Chhattisgarh.
3. D. P. Vipra College Through: The Principal, D. P. Vipra College, Old High Court Road Bilaspur, Chhattisgarh.
4. The Principal, D. P. Vipra College, Old High Court Road, Bilaspur, Chhattisgarh.
5. Snatak Mahavidyalaya Shikshan Samiti, Through: The Chairman, Snatak Mahavidyalaya Shikshan Samiti, D. P. Vipra College: Old High Court Road, Bilaspur, Police Station City Kotwali, Bilaspur, Chhattisgarh.

---- Respondent

For Petitioner : Shri A.D. Shrivastava, Advocate.
 For Respondent/State : Shri Rajendra Tripathi, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****31/10/2017**

1. Learned counsel for the petitioner would submit that the then Administrator of the college had sanctioned the earned leave and paid

salary for the period of three months in the year 2012. However, the present administrative body has straightaway proceeded to recover the amount by deducting in installments from the salary payable to the petitioner.

2. It is further argued that the said action of recovery from the salary has been initiated without giving any opportunity of hearing and, in fact, no order in writing has been passed or served on the petitioner before making the recovery. He would, thus, submit that the impugned action suffers from gross violation of principles of natural justice.
3. It is settled law that no orders causing civil consequences can be passed, without observing the rules of natural justice. 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 vs. 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 pan. 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.”

4. In view of the above instead of keeping this petition pending the same is allowed at the admission stage quashing the respondents' action of making recovery of the amount from the petitioner's salary. The respondent institution is directed to refund the amount to the petitioner, which has been deducted from his salary.
5. However, it is left open for the respondents to pass fresh order after giving proper adequate opportunity of hearing to the petitioner.

Sd/-
Judge
(Prashant Kumar Mishra)