

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

203

CWP No.13461 of 2013

Date of Decision: July 07, 2017

Labh Singh

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Ajay Pal Singh, Advocate
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

TEJINDER SINGH DHINDSA, J. (Oral)

Petitioner, who was working on the post of Draftsman under the Irrigation Department, State of Punjab, retired on 31.08.2012 upon attaining the age of superannuation.

Challenge in the instant petition is to the order dated 13.12.2012 (Annexure P-3) as also to the order dated 20.02.2013 (Annexure P-5) in the light of which, post retirement, his pay has been re-fixed at a lower stage and recovery has been ordered.

Counsel for the parties have been heard at length and the pleadings on record have been perused.

In the considered view of this Court, it is a case where this Court need not delve into the merits of the case.

One of the grounds raised in the petition while assailing the impugned orders, is that there has been a negation of the principle of natural justice inasmuch as, prior to passing of the impugned orders, no notice/opportunity of hearing was granted to the petitioner. Averments to such effect are contained in Para-14 of the writ petition.

In the joint reply filed on behalf of respondents No.1 to 3,

there is no denial to such contention and ground raised by the petitioner.

It is by now well settled that no order putting an employee to a pecuniary disadvantage can be passed without affording to him a reasonable opportunity of being heard.

In the light of such conceded position of fact whereby the impugned orders dated 13.12.2012 (Annexure P-3) and 20.02.2013 (Annexure P-5) having been passed without affording to the petitioner any notice/opportunity of hearing, the writ petition is allowed.

The impugned orders dated 13.12.2012 (Annexure P-3) and 20.02.2013 (Annexure P-5) are set aside.

Liberty, however, is granted to the respondent-Department to proceed further in the matter and pass orders afresh but after adhering to the principle of natural justice.

It may also be observed that in the eventuality of the respondents, taking upon the exercise of passing orders afresh, the aspect of directing recovery from a retired employee may be kept in mind in reference to the pronouncement of the Hon'ble Supreme Court in ***State of Punjab and others vs. Rafiq Masih (White Washer) etc., 2015(1) R.S.J., 177.***

It is further clarified that the impugned orders have been quashed on the sole ground of violation of the principles of natural justice and this court has not expressed any opinion on the merits of the case.

Petition is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

07.07.2017

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Whether speaking/reasoned : **Yes/No**
Whether reportable : **Yes/No**