

Civil Writ Petition No.13368 of 2017 & other connected petitions

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

**1. Civil Writ Petition No.13368 of 2015
Date of decision: 25.08.2017**

Harish Chand **...Petitioner**

Versus

State of Haryana and others **...Respondents**

2. Civil Writ Petition No.13342 of 2015

Lala Ram **...Petitioner**

Versus

State of Haryana and others **...Respondents**

3. Civil Writ Petition No.14347 of 2015

Mam Chand **...Petitioner**

Versus

State of Haryana and others **...Respondents**

4. Civil Writ Petition No.14494 of 2015

Hari Kishan **...Petitioner**

Versus

State of Haryana and others **...Respondents**

5. Civil Writ Petition No.13369 of 2015

Tej Ram **...Petitioner**

Versus

State of Haryana and others **...Respondents**

6. Civil Writ Petition No.12513 of 2015

Ishwar Singh **...Petitioner**

Versus

Civil Writ Petition No.13368 of 2017 & other connected petitions

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State of Haryana and others

...Respondents

7.

Civil Writ Petition No.14710 of 2015

Karam Chand

...Petitioner

Versus

State of Haryana and others

...Respondents

8.

Civil Writ Petition No.3530 of 2016

Bali Ram

...Petitioner

Versus

State of Haryana and others

...Respondents

9.

Civil Writ Petition No.11280 of 2016

Suresh Sharma

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr. R.S.Randhawa, Advocate for
Mr.Sanjiv Gupta, Advocate for the petitioner
(in CWP Nos.13342, 13368, 13369, 14347, 14494 & 14710 of
2015).

Mr. R.S.Randhawa, Advocate for
Mr. Pankaj Kundra, Advocate for the petitioner
(in CWP Nos.3530 and 11280 of 2016)

Ms. Shruti Jain Goyal, Assistant Advocate General, Haryana
(in all the petitions).

G.S.SANDHAWALIA, J. (Oral)

This order shall dispose of Civil Writ Petition Nos.13342,
13368, 13369, 14347, 14494, 14710 of 2015, 3530 and 11280 of 2016 as

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common questions of fact and law are involved in these petitions. However, for dictating this order, the facts have been taken from Civil Writ Petition No.13368 of 2015.

The petitioner seeks quashing of order dated 29.5.2015 (Annexure P/1) vide which the pay of the petitioner has been refixed.

It is the case of the petitioner that he had filed Civil Writ Petition No.14201 of 2012 which was allowed and he was granted the benefit of technical pay scale.

Admittedly, vide impugned order dated 29.5.2015 (Annexure P/1) without giving any show cause notice or opportunity of hearing, alteration in the pay was done. It is the case of the petitioner that earlier vide order dated 23.5.2013 (Annexure P/2) fixation of pay was rightly done. It is not disputed that said action of the respondents is violative of principle of natural justice and specific averment has been made that no show cause notice was issued to the petitioner as to why his pay was not to be refixed. The petitioner has a vested legal right in case his pay is to be refixed to his detriment and it is for the respondents to issue show cause notice asking him that in what circumstances his pay is to be refixed. Reference can be made to the judgment of the Apex Court in **Canara Bank and others Vs. Debasis Dass and others** 2004(4) Supreme Court Cases 557 wherein it was held that principles of natural justice have been recognised which is commonly known as “*audi alteram partem*” rule and notice is the first limb of the principle and second limb is to hear the other side and this principle applies to judicial, quasi-judicial and administrative authorities to avoid injustice. Relevant para reads as under:-

“19. Concept of natural justice has undergone a great deal

Pardeep Kumar
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Punjab and Haryana High Court,
Chandigarh

of change in recent years. Rules of natural justice are not rules embodied always expressly in a statute or in rules framed thereunder. They may be implied from the nature of the duty to be performed under a statute. What particular rule of natural justice should be implied and what its context should be in a given case must depend to a great extent on the fact and circumstances of that case, the frame-work of the statute under which the enquiry is held. The old distinction between a judicial act and an administrative act has withered away. Even an administrative order which involves civil consequences must be consistent with the rules of natural justice. Expression 'civil consequences' encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations, and non-pecuniary damages. In its wide umbrella comes everything that affects a citizen in his civil life.”

The impugned order dated 29.5.2015 (Annexure P/1) is liable to be set aside on this ground itself.

Accordingly, all the present writ petitions are allowed. The impugned orders are set aside. However, respondents are at liberty to proceed against the petitioners by issuing them show cause notice and affording opportunity of hearing and passing final order thereafter.

August 25, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/N