

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

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**CWP-17306-2014 (O&M)
Date of decision: 03.03.2017**

Mahesh Kumar

....Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr.Rakesh Nagpal, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

P.B. Bajanthri, J. (Oral)

In the present writ petition, the petitioner has questioned the validity of the order dated 20.02.2014 and 07.05.2014 vide Annexures P7 and P10 respectively passed by 4th respondent. Matter relates to re-fixation of pay of the petitioner. Vide Annexure P7 petitioner's pay was re-fixed without notice. Consequently, show cause notice was issued to the petitioner on 20.03.2014. Show cause notice reads as under:-

“It is intimated that your has been re-fixed by this office vide No.1132-39/9-E dated 20.02.2004 duly verified by Accounts Officer, Hisar. Your pay has been reduced and accordingly the pay for the month of March, 2014 is to be disbursed by this office as per these office orders.

You are hereby given this notice to

submit your object if any within 7 days on this pay fixation so that further action in the matter may be taken by this office.”

2. Petitioner has submitted a detailed reply on 31.03.2014. Pursuant to the reply to the show cause notice, Executive Engineer, Sirsa Water Services Division, Sirsa passed an order rejecting petitioner's reply to show cause notice which reads as under:-

“The reply submitted by you has been considered sympathetically and found unsatisfactory. Hence the reply has been rejected.”

3. Learned counsel for the petitioner submitted that the object of submission of reply to the show cause notice is defeated since rejection of petitioner's reply dated 07.05.2014 has not been considered and the contentions raised by the petitioner in his reply is not answered. Therefore, Annexures P7 and P10 are liable to be set aside.

4. Per contra, learned State counsel submitted that fixation is in accordance with rules. Therefore, there is no infirmity and further consideration of the petitioner's reply in detail may not be necessary. Consequently, petition is liable to be rejected.

5. Heard learned counsel for the parties.

6. Perusal of Annexure P7 it is evident that it is without notice. Thereafter, the notice was issued notice do not contain in what manner the pay fixation has been made with reference to any rule nothing is forthcoming. Further consideration of petitioner's reply to show cause notice reads only to the extent “the reply submitted by you has been

considered sympathetically and found unsatisfactory. Hence reply has been rejected.” The author of Annexures P7 and P10 is Executive Engineer who is a Class I officer, who has dealt the matter in respect of pay fixation and after receipt of reply in a shabby manner i.e., without assigning the reasons as well as contention raised by the petitioner in his reply to the show cause notice. Therefore, Annexure P7 and P10 are set aside reserving liberty to the Executive Engineer-respondent No.4 to pass a fresh order of re-fixation after due notice to the petitioner and proceed to pass final order in respect of re-fixation of pay is concerned.

7. Petition is allowed with cost of Rs.10,000/-. The same shall be paid to the petitioner. If the Executive Engineer who had passed the order vide Annexure P10 dated 07.05.2014 is still in service the cost shall be recovered from him after following due procedure.

03.03.2017

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No