

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24590 of 2012

Date of Decision:-12.01.2017.

Om Parkash

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Sandeep Kumar Yadav, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioner has assailed the order dated 17.10.2012 (Annexure P-1) by which the petitioners pay has been revised and further order for recovery of excess payment made to the petitioner.

2.) Learned counsel for the petitioner submitted that order dated 17.10.2012 passed by the respondents in refixation of pay and ordering recovery is in pursuance to the communication dated 14.6.2010 of the Finance Department.

3.) It was further submitted that Finance Department communication dated 14.6.2010 was the subject matter in CWP No.18438 of 2010 in which the said communication dated 14.6.2010 has been set aside on 3.11.2012. The respondents filed review application against the order dated 3.11.2012. Review application was dismissed on 29.11.2013.

Thereafter, the respondents preferred LPA and the same was also rejected on 12.5.2014. Thus, the impugned order dated 17.10.2012 which is based

on the Finance Department communication dated 14.6.2010 do not sustain.

4.) On the other hand, learned State counsel fairly submitted that the Finance Department communication dated 14.6.2010 was subject matter before this Court and this Court has set aside the said communication.

5.) Learned State counsel submitted that necessary amendment of Rules have been made by the State Government. Pursuant to amendment of Rules, further action has been taken to revise the pay of the petitioner which is in accordance with law.

6.) Having regard to the fact that the Finance Department communication has been set aside which is the basis for passing the impugned order dated 17.10.2012, the order dated 17.10.2012 vide Annexure P-1 by which the petitioner's pay has been refixed and recovery has been ordered do not sustain. Accordingly, Annexure P-1 dated 17.10.2012 is set aside. Since learned State counsel submitted that necessary amendment to Rules have been made and further action has been taken against the petitioner. However, subsequent action is not the subject matter in the present case. Due to amendment of rules certain action had been taken or to be taken is a separate cause of action. Present order would not come in the way of taking any action afresh.

7.) Writ petition disposed.

(P.B. BAJANTHRI)
JUDGE

January 12, 2017.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.