

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

CWP No.9547 of 2015 (O&M)

Date of Decision:25.10.2017

Avtar Singh Narula

... Petitioner

Vs.

Union of India and others

... Respondents

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

Present : Mr. Aman Chaudhary, Advocate for the petitioners.

Mr. Vivek Singla, Advocate for respondents No.1 to 3.

P.B. BAJANTHRI J. (Oral)

In the instant writ petition, petitioner has challenged the validity of orders dated 7.5.2015 (Annexures P-26 and P-27).

Petitioner was appointed as Secretary, Gurdwara Election Commission in the month of June 2010. With reference to revision of pay, petitioner's pay was revised from time to time and it was extended. On 30.9.2015, office of Chief Commissioner Gurdwara Election was closed. In the meanwhile, Union of India-respondent noticed that petitioner has been extended pay which is not commensurate with the post held by him read with pay scale. Consequently, without issuing notice and so also without re-fixation of pay, they proceeded to pass order of recovery and termination on 7.5.2015 which is the subject matter of this litigation.

Learned counsel for the petitioner submitted that appointing authority in respect of post of Secretary, Gurdwara Election Commission is concerned Chief Commissioner Gurdwara Election. Therefore, Union of India has no authority whatsoever insofar as service condition of the petitioner like re-fixation of pay and recovery so also passing order of termination. Therefore, impugned orders dated 7.5.2015 (Annexure P-26

and P-27) are liable to be set aside.

Per contra, learned counsel for the respondents while resisting the petitioner's claim submitted that even though appointing authority in respect of the Secretary, Gurudawara Election Commission is Chief Commissioner Gurdwara Election. At the same time, insofar as fixation of pay or financial implications are concerned, powers are vested with the Union of India. That apart, the office of Chief Commissioner Gurdwara Election is no more existing as on 30.9.2015. Thus, rightly the Union of India has exercised their powers.

Heard learned counsel for the parties.

Question of interference in respect of order of termination dated 7.5.2015 (Annexure P-27) do not survive for consideration in view of the fact that the office of Chief Commissioner Gurdwara Election was closed on 30.9.2015. Insofar as order dated 7.5.2015 Annexure P-26 relating to recovery of a sum of Rs.15,00,000/- is concerned, it is evident from Annexure P-26, respondent-Union of India has not re-fixed the pay of the petitioner and so also how the respondents arrived at a sum of Rs.15,00,000/- has been paid in excess and contrary to pay rules or executive orders. In other words, Annexure P-26 is without notice and so also details of re-fixation of pay of the petitioner and how the excess amount has been arrived is not forthcoming. Therefore, Annexure P-26 is set aside. Reserving liberty to the respondents to pass a fresh order in accordance with law. It is further directed that if any adverse order is likely to be passed against the petitioner, petitioner be heard in the matter by issuing show cause notice containing re-fixation of pay and recovery are with reference to particular statutory rule/s or executive order/s and source

of power to Union of India to take such action. Such action shall be completed within a period of four months from today.

With the above observation, petition stands disposed of.

25.10.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No