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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4556/2014

MADAN SINGH ..... Petitioner
Through: Mr.K.G.Mishra, Adv. with
Mr.A.V.Malhotra, Adv.

versus

PUNJAB NATIONAL BANK ..... Respondent
Through: Mr.Rajat Arora, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

O R D E R

% 17.05.2017

1. The present petition has been filed by the petitioner seeking a direction against the respondent Bank to refund an amount of Rs.1,01,325.95/- recovered from the account of the petitioner on February 29, 2008 along with the interest @ 18% per annum. The facts are, the petitioner being an Ex-Serviceman, joined the respondent bank on September 12, 1985 as a Peon-cum-Guard. On that day, the pay of the petitioner was fixed at Rs. 478/-. On December 12, 1994, the respondent-bank had issued a circular, whereby it was decided that the salary of the Ex-Serviceman re-employed in the bank, carrying the special allowance, be re-fixed from the date of re-employment in the bank and any excess amount paid to such persons be recovered from March 13, 1992. This circular was subject matter of writ petitions before the High Court of Punjab and Haryana, being Civil Writ Petition No. 109 of 1998 (and connected writ

petitions) which were decided on August 19, 1999. Suffice to state, the writ petitions were disposed of, whereby the orders of reduction passed were quashed by granting consequential relief. It was observed by the High Court that the respondent was at liberty to proceed afresh in accordance with principles of natural justice. That apart, I may note, an Industrial Dispute was raised by an Association of the employees before the Assistant Labour Commissioner. It was finally referred for adjudication before the Central Government Industrial Tribunal being I.D. No. 45/1997. The said Industrial Dispute was espoused by the Punjab National Bank Workers' Association. The Industrial Tribunal answered the reference vide award dated June 26, 2008 by holding, that the action of the respondent herein, in issuing circular No. 43/94 dated December 12, 1994 for re-fixing basic pay of ex-servicemen and recovering the excess amount paid w.e.f. March 13, 1992 is neither legal nor justified. The Tribunal directed the respondent bank to restore the pay and repay the deducted amount. Against this award of June 26, 2008, the respondent bank filed a Writ Petition before this Court being W.P.(C) 8447/2008, which was disposed of by this Court on February 26, 2013, on an understanding arrived at between the parties that the award be modified, in conformity with the order of the Punjab and Haryana High Court dated August 19, 1999. Accordingly, this Court has held as under:

> *".....With the consent of parties, the award stands modified accordingly in terms of the directions issued by the Punjab and Haryana High Court in the aforesaid writ petition. Consequently, the orders of reduction of pay of the workman stands quashed".*

2. The effect of the order of this Court in W.P.(C) 8447/2008 is that the

re-fixation of the pay from the date of employment was held to be bad so also the recovery effected.

3. Mr. Rajat Arora, learned counsel for the respondent, states that in the case in hand, a show cause notice was actually issued to the petitioner, whereby the petitioner was put to notice, as to why, his pay be not refixed at Rs.430/- instead of Rs.478, from the date of his initial appointment. According to him, the petitioner had responded to this show cause notice. In other words, it is his submission that even though, the circular was held to be bad, but, since the liberty was granted to the respondent-bank to proceed in accordance with the principles of natural justice and in this case a show cause notice, in fact, having been issued, the recovery effected, cannot be faulted with.

4. On the other hand, Mr. K.G.Mishra, learned counsel for the petitioner states that in response to the show cause notice issued to the petitioner, the petitioner has asked the respondent bank to advise him, how much recovery will be made and how the figure sought to be recovered, has been arrived at. It is a conceded position that no response was sent by the bank to the petitioner on this aspect.

5. Having considered the above facts, in the fitness of things, this Court is of the view, it would be appropriate for the respondent bank to respond to the letter of the petitioner dated May 4, 2007, and give details of pay fixation and the break up of the recovery, sought to be effected, by communicating the same to the petitioner, within a period of six weeks from today. On receipt of the said communication, the petitioner shall give response within four weeks thereafter. The response of the petitioner shall be considered by the bank within a further period of six weeks in accordance

with the rules and regulations on the subject. If the bank is of the view that the recovery was not warranted, then the bank shall refund the amount of Rs. 1,01,325.95/- with interest @ 9 % p.a., computed with effect from February 29, 2008. If the decision of the bank is otherwise, then the matter shall be treated as closed.

6. With the aforesaid directions, the writ petition is disposed of.

V. KAMESWAR RAO, J

MAY 17, 2017*/jg*