

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

**Civil Writ Petition No.16550 of 2013
Date of Decision:-10.01.2018**

Parshotam Das

...Petitioner

Versus

Union of India and others

...Respondents

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

Present:- Mr. S.S. Hira, Advocate
for the petitioner.

None for respondent No.1.

Mr. Vikas Singh, Advocate
for respondents No.2 to 5.

P.B. BAJANTHRI J.

In the instant petition petitioner while working as Deputy Manager, Bharat Cooking Coal Limited, his pay anomaly was set right on 24.7.2012 while giving certain benefits to the extent of stepping up of basic pay. Thus, his pay was set right from Rs.9302/- to Rs.10,061/-. Consequently, as on 1.4.2012 he was allowed to draw basic pay of Rs.47,773.99/- (Annexure P-6) whereas on 30.1.2013 with reference to guidelines and in order to resolve pay anomaly between the executive cadre vide office order dated 24.7.2012 pay anomaly of the petitioner, which was set right was sought to be cancelled while restoring the petitioner's basic

pay of Rs.9302/-. The petitioner aggrieved by the communication dated 30.1.2013 presented this petition.

Learned counsel for the petitioner has submitted that the impugned communication dated 30.1.2013 is without notice. He has further submitted that after due verification of records, respondents have resorted to set right the pay anomalies of the petitioner from Rs.9302/- to Rs.10,061/- in the basic pay as on 1.1.1997 and consequential refixation was made. Therefore, no infirmity is forthcoming from Annexure P-6, hence, Annexure P-7 dated 30.1.2013 is liable to be set aside.

Per contra, learned counsel for the respondent raised preliminary objection that author of Annexures P-6 and P-7 are from Dhanbad, State of Jharkhand, therefore, this Court has no territorial jurisdiction to interfere with Annexure P-7. It was further submitted that merely petitioner is residing in the territorial jurisdiction of this Court, he cannot resort to file writ petition in the territorial jurisdiction of this Court. It was admitted that before issuance of Annexure P-7 no notice was given.

Heard learned counsel for the parties.

Preliminary objection raised by the learned counsel for respondent Bharat Cooking Coal Limited to the extent that Annexures P-6 and P-7 were issued from Dhanbad (State of Jharkhand) and that this Court has no territorial jurisdiction is concerned, it is to be noted that petitioner has attained the age of superannuation and retired from service and he is residing in the State of Punjab. The respondent Bharat Cooking Coal Limited cannot expect a retired employee to move to State of Jharkhand and

file a writ petition relating to rectifying pay anomaly. One can understand if litigant is still in service in that event whether territorial jurisdiction lies where he was working or where the head office of his employer. In other words, he has a choice to file the case at the working place or where the head office of the employer is situated. The Supreme Court in the case of **Naval Kishore Sharma vs. UOI 2014(9) SCC 329** held that writ petition is maintainable even though territorial jurisdiction was not there due to interim order passed by the High Court. In the present case writ was filed in the year 2013, therefore, question of asking petitioner to approach to the High Court of State of Jharkhand may not be correct that to having regard to the fact that petitioner has attained the age of superannuation and retired from service. Hence, the preliminary objection raised by the respondent is hereby rejected. The crux of the matter is Annexure P-7 dated 30.1.2013 that pay anomaly which was set right by the respondent on 24.7.2012 has been cancelled while restoring the basic pay of the petitioner from Rs.9302/-. In other words there is civil consequence to the extent of modifying the basic pay from Rs.10,061/- to Rs.9302/- as on 30.1.2013, therefore, petitioner is entitled to show cause notice. Thus, there is violation of principle of natural justice in passing the order dated 30.1.2013 (Annexure P-7), the same is hereby set aside. The petitioner is entitled to benefit of Annexure P-6 till further action is taken by the respondent by issuing show cause notice. The respondents are hereby directed to specify under which provision or executive order or office order that there is proposal to modify the basic pay of the petitioner as on 1.1.1997 from

Rs.10,061/- to Rs.9032/- in the show cause notice so that petitioner can reply effectively.

With the above observation the petition stands allowed.

At this stage, learned counsel for the respondents submits that Annexure P-6 has not been given effect. Even if it is not given, they are hereby directed to give effect till passing of final order and release difference of pay within a period of three months from today.

January 10, 2018
Vijay Asija

(P.B. BAJANTHRI)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No