

(115) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.21147 of 2017 (O&M)

Date of decision: 22.01.2018

Pawan Kumar and Others

..... Petitioners

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Surender Singh Dalal, Mr. Ravinder Malik (Ravi),
Mr. Rajeev Sharma and Mr. Kuldip Singh, Advocates for the
petitioners.

Mr. Sanjay Kaushal, Senior Advocate with
Mr. Sukhdev Singh Gopera, Advocate for the petitioners in
CWP No.24690 of 2017.

Ms. Tanisha Peshawaria, DAG, Haryana in CWP Nos.24690
and 29061 of 2017.

Ms. Parminder Kaur, Advocate for respondent No.3 in
CWP No.24690 of 2017.

Mr. Sandeep Panwar, Advocate for respondents No.4, 6, 7, 15,
16, 17, 18, 19, 22, 23, 24, 25 & 26 in CWP No.24690 of 2017.

Ms. Swati Sharma, Advocate for respondent No.9 in
CWP No.24690 of 2017..

Mr. Manoj Sharma, Advocate for respondent No.20 in
CWP No.24690 of 2017.

Mr. Saurabh Garg, Advocate for respondent No.27 in
CWP No.24690 of 2017.

Ms. Amandeep Kaur, Advocate for Mr. Ramesh Sharma,
Advocate for respondent No.30 in CWP No.24690 of 2017.

Rajesh Bindal, J.

This order will dispose of a bunch of the writ petitions bearing
CWP Nos.21147 to 21157, 22936, 23006, 23055, 23066, 23150, 23153,
23154, 23155, 23158, 23181, 23223, 28029, 24690, 28055, 25065, 25138 to
25158, 27318, 28528, 28650, 29061, 15063 of 2017 and 1189 of 2018.

The petitioners herein are working on different posts with different Primary Agricultural Co-operative Societies. Their grievance is that the salary being drawn by them earlier has been reduced allegedly in view of the Primary Agriculture Co-operative Societies Staff Service/Primary Co-operative Credit & Service Societies (Second Amendment) Rules, 2017, which are effective from 30.05.2017. The action has been taken without affording any opportunity of hearing to the petitioners to explain as to whether the amendment in Rules, as is sought to be applied for reduction of their salary, would in fact apply to them or not. Though in the petitions, vires of the aforesaid amendment has also been impugned, however, learned counsel for the petitioners submitted that CWP No.29546 of 2017 titled as Darshu Lal and others v. State of Haryana and others filed by similarly situated employees came up for consideration before a Single Bench of this Court wherein while noticing that the pay of the petitioners therein had been reduced without affording opportunity of hearing, the matter has been remitted back to be decided afresh after affording opportunity of hearing to the petitioners therein vide order dated 21.12.2017.

Learned counsel for the petitioners further submitted that they would be satisfied at this stage in case Registrar, Co-operative Societies who had carried out amendment in the Rules as a consequence of which the pay had been reduced, hears the petitioners before taking any action to reduce their salaries so as to enable them to explain the issues. It was further submitted that challenge to the vires of the amendment be left open so that in case the petitioners are aggrieved after the order is passed by the Registrar, Co-operative Societies, they may avail of their remedy and challenge the vires of the amendment as well.

From the documents available on record, it could not be pointed out that any notice was issued to the petitioners before reducing their salary, as is claimed by the petitioners.

Keeping in view the aforesaid circumstances and settled principles of law that no order having civil consequence can be passed without affording opportunity of hearing and the action of the respondents in the present case being in violation thereof namely reduction in pay of the petitioners without affording them opportunity of hearing, in our opinion, the action deserves to be set aside. Ordered accordingly. The Registrar, Co-operative Societies, Haryana who, it is stated to be the competent authority, will issue show cause notices to the petitioners and any other affected employee of the proposed action of reduction of pay, if any, in terms of amendment as referred to above to enable the affected persons to respond to the same within one month of the service of notice on the affected persons. It would be appropriate if the show cause notices are issued by the Registrar, Co-operative Societies to the employees who may be affected within one month from the date of receipt of copy of the order. After response is received from the persons to whom notices are to be issued. The matter shall be finally disposed of within a period of one month thereafter by passing a speaking order. Entire exercise be concluded within a period of three months.

As the action has been taken by the authorities for reduction in pay of the petitioners without affording opportunity of hearing, operation of the impugned order shall remain stayed for a period of three months, however, subject to the condition that in case the reduction in pay of the petitioners is found to be justifiable, the amount, if any paid, shall be recoverable from them.

The issue regarding challenging to the vires of the amendment is left open.

The writ petitions are disposed of in the aforementioned terms.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

22.01.2018
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.