

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

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**CWP-26903-2015 (O&M)
Date of decision:17.01.2018**

Hans Raj Mofaria

....Petitioner

Versus

Union of India and others

.... Respondents

2)

CWP-1368-2016 (O&M)

Gurtarlochan Singh

....Petitioner

Versus

Union of India and others

.... Respondents

3)

CWP-530-2016 (O&M)

Charanjit Singh

....Petitioner

Versus

Union of India and others

.... Respondents

4)

CWP-589-2016 (O&M)

Karamjit Singh

....Petitioner

Versus

Union of India and others

.... Respondents

5)

CWP-865-2016 (O&M)

Sohan Singh

....Petitioner

Versus

Union of India and others

.... Respondents

6)

CWP-3277-2016 (O&M)

Gurbinder Singh

....Petitioner

Versus

Union of India and others

.... Respondents

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

Present: Mr. G.S. Bal, Senior Advocate with
Ms. Harmanpreet Kaur, Advocate for the petitioner.

Mr. Sumeet Goel, Advocate and
Mr. Manav Bajaj, Advocate for respondents No.2 to 4.

P.B. BAJANTHRI, J. (ORAL)

This order shall dispose of the aforementioned six petitions.

However, for convenience and clarity, facts are being taken from petition bearing No. 26903 of 2015.

2. In the instant writ petition, petitioner has challenged the office order dated 18/22.9.2015 (Annexure P13) by which petitioner has been shifted retrospectively from CDA pattern pay scales to that of IDA pattern scales for the first promotion w.e.f. 16.02.2001. Petitioner was promoted as Assistant Grade II (D). As on the date of his promotion his pay scale was in the CDA pattern and it was continued even on promotion. To that extent his pay was fixed on 16.12.2002 (Annexure P-3). When things stood thus, under the instructions of Government of India, Food Corporation of India proceeded to pass office order on 18/22.09.2015 (Anexure P-13) altering petitioner's pay scale from CDA pattern to that of IDA pattern whereby petitioner's pay has been reduced and it is disadvantage to the petitioner. Issuance of office order and shifting petitioner's pay scale to CDA to IDA is without giving notice to the petitioner. Time and again Supreme Court has held that if there is civil consequences in passing any adverse order in that event notice is mandatory. In the present case admittedly no notice has been given before issuing office order to the extent of shifting petitioner's pay scale from CDA pattern to that of IDA pattern whereby petitioner's pay has been reduced. Further recovery is also ordered by Food Corporation of India as is evident from communication dated 04.11.2015 (Annexure P-20).

3. Learned counsel for the respondents while resisting

petitioner's claim submitted that Food Corporation of India have simply followed the orders and directions issued by Government of India. Therefore, question of issuance of notice to each individual in respect of changing their pay scale pattern from CDA to IDA is not warranted. Therefore, petitioner has not made out a case so as to interfere with office order on 18/22.09.2015 (Anexure P-13). Learned counsel for the respondent also pointed out that on precautionary measure petitioner had submitted his representation not to fix his pay from CDA to IDA that suffice issuance of notice.

4. Heard learned counsel for the parties.

5. Crux of the matter in the present case is that action of Food Corporation of India in changing CDA pattern to that of IDA pattern has civil consequences whereby the petitioner's pay has been reduced for which notice and explanation is required to be considered by the Food Corporation of India. Assuming that on presumption petitioner had submitted his explanation that shifting of pay scale from CDA to IDA pattern is impermissible. However, perusal of the records it is evident that Food Corporation of India have ignored petitioner's representation/explanation submitted on 14.09.2015. There is not even reference in Annexure P13 relating to consideration of petitioner's explanation dated 14.09.2015. Thus, it is a clear case of violation of principle of natural justice having regard to the impugned action. Therefore, Annexure P13 dated 18/22.09.2015 is hereby set aside. Reserving liberty to the respondents to proceed by issuance of show

cause notice and seeking explanation of the petitioner. Above exercise shall be completed within a period of 4 months from today. Reserving liberty to the petitioner insofar as challenge to item No. (iii) of prayer clause.

6. CWP stands allowed in part.

17.01.2018
pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons:

Yes/No

Whether Reportable:

Yes/No