

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

CWP No.9745 of 2015
Date of decision: 10.05.2019

Wg. Cdr. Bhushan Nanda.

..... Petitioner

Versus

State of Haryana and another.

.... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Arjun Pratap Atma Ram, Advocate for the petitioner.
Mr. Lokesh Sinhal, Addl. A.G., Haryana.

B.S. WALIA, J. (ORAL)

[1] Prayer in the instant petition is for the issuance of a writ in the nature of Certiorari for quashing order (Annexure P-4) dated 21.07.2014, Mandamus for directing the respondents to continue paying flying and other allowances to the petitioner as granted vide memo Annexure P-2 dated 21.03.2006, besides, to direct the respondents to refund to the petitioner along with interest @ 15% per annum, the sum of ₹2,33,172/- recovered from his salary w.e.f. January, 2015 onwards on account of house rent, flying pay, special travelling allowance, flying hours and flight certification.

[2] Learned counsel contends that order (Annexure P-4) dated 21.07.2014 passed by the Government besides recovery of ₹ 2,33,172/- made from the salary of the petitioner qua house rent, flying pay, special travelling allowance, flying hours and flight certification was without giving the petitioner an opportunity of hearing and since the impugned order/action affects the petitioner adversely, financially, the same could not have been passed without compliance with the principles of natural justice.

[3] Learned counsel contends that order (Annexure P-4) as also recovery of ₹ 2,33,172/- is liable to be set aside on the short ground of non-compliance with the principles of natural justice and the petitioner held entitled to payment of aforesaid financial benefits along with interest.

[4] Faced with the aforesaid position, learned Addl. AG states that since admittedly no opportunity of hearing was given before resorting to the impugned action, therefore the respondents be permitted to pass fresh orders after giving opportunity of hearing to the petitioner.

[5] The same satisfies learned counsel for the petitioner.

[6] In the light of statement of learned counsel for the parties, impugned order (Annexure P-4) dated 21.07.2014 as also recovery of ₹2,33,172/- made from the salary of the petitioner w.e.f. January 2015 onwards qua house rent, flying pay, special travelling allowance, flying hours and flight certification is set aside. Respondents shall pass fresh orders in respect thereto in accordance with law after complying with the principles of natural justice. Retention or refund of sum of ₹ 2,33,172/- would depend on the decision to be taken by the respondents after giving opportunity of hearing to the petitioner. It is further ordered that in the eventuality of the claim of the petitioner being accepted, then apart from making payment of aforesaid financial benefits, the respondents would also consider and decide the claim of the petitioner for award of interest on said amount as per the instructions issued by the Government in such like cases.

[7] Writ Petition disposed of in the aforementioned terms.

(B.S. WALIA)
JUDGE

10.05.2019
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