

HIGH COURT OF CHHATTISGARH AT BILASPUR**W.P.(S) No. 1491 of 2019**

1. Munna Lal Goutam, S/o. Shri Makhan Singh Goutam, Aged About 55 Years, Occupation - Lecturer, Posted At Government Higher Secondary School J. Sankar, Balod, Tahsil And District Balod (Chhattisgarh)
2. Ghanaram Deshmukh, S/o. Shri Baratu Ram Deshmukh, Aged About 49 Years Lecturer (L.B.) Posted At Government Higher Secondary School J. Sankara, Balod, R/o Village Korguda, Post Dudhali, Tahsil Dondilohara, District Balod Chhattisgarh.
3. Roop Narayan Deshmukh S/o Shri Tijau Ram Deshmukh, Aged About 52 Years Occupation Lecturer L.B. Posted At Government Higher Secondary School Jhalmala Balod, R/o Amapara Balod, District Balod Chhattisgarh.
4. Smt. Jyoti Deshmukh W/o Shri Lochan Lal Deshmukh, Aged About 45 Years Lecturer (L.B.) Posted At Government Higher Secondary School Jhalmala Balod, R/o Amapara Balod, Tahsil And District Balod Chhattisgarh.
5. Krishna Kumar Pahri S/o Shri Budhu Ram Pahri, Aged About 48 Years Occupation Lecturer (L.B.) Posted At Government Higher Secondary School Latabod, Balod, R/o Latabod, Post Latabod, Tahsil And District Balod Chhattisgarh.
6. Ku. Shanta Sunhare D/o Shri Loknath Sunhare, Aged About 41 Years Teacher (L.B.) Posted At Government Middle School Latabod, Balod, R/o Amapara Balod, Tahsil And District Balod Chhattisgarh.
7. Subhash Kumar Nayak S/o Shri Chandulal Nayak, Aged About 55 Years Lecturer (L.B.) Posted At Government Higher Secondary School Latabod, Balod, R/o Village Soram, Post Office Darbar Mokhali, Tahsil Patan, District Durg Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh, Through The Secretary, Department Of Panchayat And Rural Development Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, District Raipur Chhattisgarh.
2. Chief Executive Officer, Jila Panchayat, Balod, District : Balod, Chhattisgarh
3. Chief Executive Officer, Janpad Panchayat, Balod, District Balod Chhattisgarh.
4. District Education Officer, Balod, District Balod Chhattisgarh.
5. Block Education Officer, Balod, District Balod Chhattisgarh.
6. District Treasury Officer, Balod, District Balod Chhattisgarh.
7. Accountant General, Raipur, District Raipur Chhattisgarh.

---- Respondents

For Petitioner : Mr. Tapan Kumar Chandra, Advocate

For State : Mr. Avinash Singh, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

31.01.2020

1. Learned counsel for the petitioners would submit that by the impugned order, the Block Education Officer, Balod, District Balod has directed for recovery of the amount of excess payment made to the petitioners on the head 'House Rent Allowance, Medical Allowance and Stagnation Allowance' for the period May 2013 to November 2013.
2. It is argued that the impugned order has been passed without issuing any show cause notice or giving any opportunity of hearing to the petitioners.
3. On bare perusal of the impugned order, it would be apparent that the same has been passed on account of some audit objection. It nowhere refers to any show cause notice served on the petitioners or reply filed by them or even oral notice or reply, therefore, the order suffers from gross violation of principles of natural justice.
4. It is a trite law that no order causing civil consequences can be passed, without observing the rules of natural justice. The Supreme Court in State of Punjab & Ors. v. Senior Vocational Staff Masters Association & Ors. (AIR 2017 SC 4072) held thus in paras 20 & 21 :

“20). It is by now well settled that no orders causing civil consequences can be passed, without observing rules of natural justice as it was held in Bhagwan Shukla v. Union of India & Ors. (AIR 1994 SC 2480) wherein it was held as under:

3. We have heard learned counsel for the parties. That the petitioner's basic pay had been fixed since 1970 at Rs, 190 p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs.181 p.m. from Rs.190 p.m. in 1991 retrospectively w.e.f. 18.12.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show-cause against the reduction of his basic pay. He was not, even put on notice before his pay was reduced by the department and the order came to be made

behind his back without following any procedure known to law. There, has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25.7.1991, which was impugned before the Tribunal could not certainly be sustained and the Central Administrative Tribunal fell in error in dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the order of the Central Administrative Tribunal dated 17.9.1993 as well as the order (memorandum) impugned before the Tribunal dated 25.7.1991 reducing the basic pay of the appellant From Rs.190 to Rs.181 w.e.f.18.12.1970.”

21) The order dated 16.07.2003 came to be made behind the back of vocational masters without following any procedure known to law. Thus, there has been a flagrant violation of the principles of natural justice and the respondents had been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter.”

5. In view of the above, the impugned recovery from the petitioners is set aside only on the ground of violation of principles of natural justice. However, liberty is reserved in favour of the respondents to affect the subject recovery, if they so desire after giving proper opportunity of hearing to the petitioners.
6. The writ petition stands allowed in the manner indicated above.

Sd/-
(Goutam Bhaduri)
Judge