

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 529 of 2014**

- Santosh Nag, S/o Late Dayaram Nag, aged about 45 years, R/o Kumharpara, Jagdalpur, Police Station and Post Jagdalpur, Civil and Revenue Distt. Bastar (C.G.)

---- **Petitioner****Versus**

1. State of Chhattisgarh, Through Secretary, Technical Education Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, Distt. Raipur (C.G.)
2. Director Technical Education, Bairon Bazar, Raipur, Distt. Raipur (C.G.)
3. Principal, Govt. Engineering College, Jagdalpur, Distt. Bastar (C.G.)
4. Joint Director Treasury, Account and Pension, Bastar, Jagdalpur, Distt. Bastar (C.G.)

---- **Respondents****Writ Petition (S) No. 530 of 2014**

- Gajanand Singh Sharwa S/o Nirbhay Sharwa Aged About 47 Years R/o Lalbag, Aamaguda, Ps And Post Jagdalpur, Civil And Revenue Distt Bastar (C.G.)

---- **Petitioner****Versus**

1. State of Chhattisgarh, Through Secretary, Technical Education, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, Distt Raipur (C.G.)
2. Director Technical Education, Bairon Bazar, Raipur, Distt Raipur (C.G.)
3. Principal Govt. Engineering College, Jagdalpur, Distt Bastar (C.G.)
4. Joint Director Treasury, Account And Pension, Bastar, Distt Bastar At Jagdalpur (C.G.)

---- **Respondents****Writ Petition (S) No. 531 of 2014**

- Roop Singh Sahu S/o Bisahu Ram Sahu Aged About 51 Years R/o Qtr. No. H/4, Engineering College Colony, Jagdalpur, Police Station And Post Jagdalpur, Civil And Revenue Distt. Bastar (C.G.)

---- **Petitioner****Versus**

1. State of Chhattisgarh, Through Secretary, Technical Education Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, Distt. Raipur (C.G.)
2. Director Technical Education, Bairon Bazar, Raipur, Distt. Raipur (C.G.)
3. Principal, Govt. Engineering College, Jagdalpur, Distt. Bastar (C.G.)
4. Joint Director Treasury, Account And Pension, Bastar, Jagdalpur, Distt. Bastar (C.G.)

---- **Respondents**

Writ Petition (S) No. 532 of 2014

- R.K.Shukla S/o Late Shivrath Shukla Aged About 52 Years R/o Qtr. No. G/44, Dharampura-2, Jagdalpur, Police Station And Post Jagdalpur, Civil And Revenue Distt. Bastar (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Technical Education, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, Distt. Raipur (C.G.)
2. Director Technical Education, Bairon Bazar, Raipur, Distt. Raipur (C.G.)
3. Principal, Govt. Engineering College, Jagdalpur, Distt. Bastar (C.G.)
4. Joint Director Treasury, Account And Pension, Bastar, Jagdalpur, Distt. Bastar (C.G.)

---- Respondents

For Petitioner	:	Shri Manoj Paranjpe, Advocate.
For Respondent/State	:	Shri Ravi Bhagat, Deputy Government Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

14.07.2021

1. Proceedings of these matters have been taken up through video conferencing.
2. The case of the Petitioners are that they are working in the substantive post of 'Lab Technician' and were posted at Government Engineering College, Jagdalpur at relevant point of time and by order dated 15.01.2014 (Annexure P/1) the Petitioners' pay-scale was reduced from Rs. 1200-2040 to Rs. 950-1530 and thereafter, in consequence thereof, the order of recovery dated 17.01.2014 (Annexure P/2) has been passed and the amount paid has been directed to be recovered, as such the order impugned Annexure P/1 and Annexure P/2, being arbitrary and passed in violation of principle of natural justice deserves to be set aside.
3. The return has been filed opposing the writ petition stating *inter-alia* that the Petitioners were not entitled for enhanced pay-scale, therefore, such a pay-scale has been rightly reduced and order of recovery has rightly been passed.

4. Shri Manoj Paranjpe, the learned counsel for the Petitioners would submit that Petitioners were drawing the revised pay-scale from the date of appointment *i.e.* from year 2005 and that has been granted in accordance with law. The Petitioners have not played any fraud or misrepresentation for obtaining the pay-scale and the impugned order has been passed by the 3rd Respondent without affording an opportunity of hearing and even no notice or show cause notice was issued to the Petitioners before reducing the pay-scale which has already been granted and which they were enjoying for fairly long time. As such, impugned order deserves to be set aside and the order passed by the respondent No. 3 also deserves to be set aside being in violation of the principles of natural justice.
5. Shri Ravi Bhagat, learned Deputy Government Advocate appearing for the Respondents / State would support the impugned order and submits that Petitioners were not entitled for the enhanced pay-scale and rightly it has been reduced and in consequence thereof, the order of recovery has rightly been passed.
6. I have heard the learned counsel for the parties, considered the rival submissions made hereinabove and perused the records with utmost circumspection.
7. It is not in dispute that pursuant to the Petitioners appointment on the post of 'Lab Technician', they were granted pay-scale Rs.1200-2040 from 11.08.2005 on the recommendation of Departmental Selection Committee and till the date of withdrawal dated 15.01.2014 they were enjoying the same benefit and they were being paid by the Respondents herein without demur. It is not the case of the Respondents that such a benefit has been extended on account of some misrepresentation or fraud played by the Petitioners herein and admittedly it has been granted on the recommendation of Departmental Selection

Committee, from the date noticed hereinabove.

8. At this stage, it would be appropriate to notice the decision rendered by the Supreme Court in ***Bhagwan Shukla vs. Union of India & Others***¹ in which their Lordships have clearly held that by withdrawal/ reduction of the pay-scale, employee suffers civil consequences and it cannot be done without following the principles of natural justice and it has been held in paragraph 3 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.”

9. Similarly, this Court in the case of ***Sukhdev Malakar vs. State of Chhattisgarh & Others***² similar proposition has been made, which states as under:

“4. Learned counsel for the petitioner heavily relied on a judgment and order dated 18th January, 2006 passed by this Court in Writ Petition No. 2125/2002 (*Sant Kumar &*

1 AIR 1994 SC 2480

2 2008 (2) CGLJ 33

Others vs. State of Chhattisgarh and Others), wherein this Court while considering the identical issue of reducing the regular pay scale of an employee behind their back, without following any procedure known to law is punitive and visits with civil consequence. The same cannot be passed without giving concerned employee, an opportunity of hearing.

5. Learned counsel for the petitioner further submits that the respondents/ State of Chhattisgarh preferred a Special Leave Petition (Civil) NO. 17122/2006 (*State of Chhattisgarh & Others Vs. Sant Kumar & Others*) before the Hon'ble Supreme Court, challenging the order dated 18.01.2006 (*supra*), passed by this Court and the same has been dismissed by the Hon'ble Supreme Court vide order dated 9.10.2006 after condoning the delay."

10. Thus, from the aforesaid principle of law laid down by the Supreme Court and this Court (*supra*), it is quite vivid that reduction of pay-scale cannot be done without following the principles of natural justice and without giving opportunity of hearing to the concerned government servant and as such, the order dated 15.01.2014 (Annexure P/1) and order dated 17.01.2014 (Annexure P/2) reducing pay-scale and pursuant order of recovery in teeth of decisions rendered by the Supreme Court in ***Bhagwan Shukla*** (*supra*) and by this Court in ***Sukhdev Malakar*** (*supra*).
11. Accordingly, the order dated 15.01.2014 (Annexure P/1) and order dated 17.01.2014 (Annexure P/2) are hereby quashed. However, the Respondents are at liberty to proceed in accordance with law.
12. The writ petitions are allowed to the extent indicated hereinabove. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge