

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(201)

CWP No. 3412 of 2021

Date of Decision : 09.08.2022

C.R. Mittal

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Karan Bhardwaj, Advocate for the petitioner.

Mr. Sandeep Singh Mann, Addl. A.G., Haryana.

Mr. Deepak Balyan, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

The prayer of the petitioner in the present writ petition is that vide order dated 03.06.2020 (Annexure P-12), his pay has been re-fixed by the respondents without giving any opportunity of hearing to him and keeping in view the order of re-fixation of salary, an order dated 23.06.2020 (Annexure P-13) has been passed so as to recover the excess payment paid to him.

Learned counsel for the petitioner argues that the respondents granted the benefit of revised pay scale to the petitioner and his salary was re-fixed in August, 2018 and the petitioner was to be granted the benefit of the said revised salary but, the respondents after a period of two years, again re-fixed the salary of the petitioner to his detriment without giving him any

opportunity of hearing. Learned counsel for the petitioner further argues that on the basis of the revised salary as fixed vide impugned order dated 03.06.2020 (Annexure P-12), the respondents released the benefits admissible to the petitioner and the excess amount paid has been recovered from the arrears for which the petitioner was entitled for in respect of the service rendered by him. Learned counsel for the petitioner submits that the grievance of the petitioner is that not only the pay of the petitioner has been re-fixed by the respondents without following the rules of natural justice and the recovery has been done contrary to the settled principle of law but even the amount, which is due to the petitioner, has not been released to him, which is causing prejudice to him. Hence, the impugned order dated 03.06.2020 (Annexure P-12) re-fixing the salary of the petitioner is liable to be set-aside and the recovery so effected from the petitioner is liable to be refunded to him along with the direction to the respondents to pay the arrears for which the petitioner is entitled for.

After notice of motion, the respondents have appeared and filed their reply. Learned counsel for the respondents submits that the petitioner was not entitled for re-fixation of the salary as fixed in the order passed in August, 2018, which needed rectification and, therefore, the pay of the petitioner was rightly fixed again on 03.06.2020 (Annexure P-12) and the excess amount paid, being a public money, was recovered from the arrears due to the petitioner. Learned counsel submits that in case, any arrears are yet to be paid to the petitioner after recovering the amount, the same will be considered in accordance with law and appropriate order will be passed.

I have heard learned counsel for the parties and have gone

through the record with their able assistance.

It is a conceded position before this Court that respondents fixed the salary of the petitioner in August, 2018 i.e. after a period of approximately two years of the retirement. In case, the said order needed amendment, the same can only be done after giving due opportunity of hearing to the petitioner, which concededly was not given before re-fixing of the salary as done vide order dated 03.06.2020 (Annexure P-12).

It is a settled principle of law settled by the Hon'ble Supreme Court of India in Civil Appeal No. 2265 of 2011 titled as ***Chamoli District Co-operative Bank Ltd through its Secretary/Mahaprandhak and another vs. Raghunath Singh Rana and others***, 2016(12) SCC 204, decided on 17.05.2016 and in Civil Appeal No. 9417 of 2019 titled as ***M/s Daffodills Pharmaceuticals Ltd. and another vs. State of U.P. and another*** 2019 (12) JT 283, decided on 13.12.2019 that where any order passed by the authority concerned causes prejudice to an employee especially, financial liability, an opportunity of hearing is must and no order causing prejudice to an employee can be passed by an employer unilaterally.

Keeping in view the above, as no opportunity of hearing was given to the petitioner, the re-fixation order dated 03.06.2020 (Annexure P-12) cannot be sustained in the eyes of law and the same is accordingly quashed. Any recovery done from the petitioner on account of the said revision of pay is also quashed, however, respondents are given liberty to pass a fresh order in accordance with law after giving due opportunity of hearing to the petitioner. It is made clear that refund of excess amount already recovered will depend upon the fresh order to be passed by the

respondents.

As far as any arrears for which the petitioner is still entitled in respect of the service rendered by him, the respondents are directed to look into the matter and pass an appropriate order on the said grievance of the petitioner within a period of two months of the receipt of copy of this order and in case, it is found that any amount is due to the petitioner on account of revision of salary/pension, the same be also extended to the petitioner within the said time period.

Petition is allowed in above terms.

August 09, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes