

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(235)

CWP No. 16486 of 2020
Date of Decision : 09.11.2022

Pardeep

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sajjan Singh, Advocate for the petitioner.

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

Harsimran Singh Sethi J. (Oral)

In the present petition, the challenge is to the order dated 12.09.2020 (Annexure P-18) by which, the monthly remuneration of the petitioner has been reduced from ₹57,700/- to ₹35,400/- on the ground that the same is not only arbitrary and illegal and contrary to the facts on record but even while passing the impugned order dated 12.09.2020 (Annexure P-18) reducing the petitioner's remuneration, the rules of natural justice were violated as no show cause notice whatsoever was given to withdraw a benefit, which the petitioner had already availed.

As per the facts mentioned in the petition, the petitioner joined as Guest Lecturer on 01.09.2008 in the subject of Computer Science with respondent No. 3-College. Petitioner continued working as such and he was

being paid a consolidated salary of ₹8,000/- per month. At the time when the petitioner was initially appointed, he was a Post Graduate and while working, the petitioner obtained a degree of Ph.D from C. Mothilal Jawaharlal University, Meghalaya. After obtaining the said Ph.D degree, the petitioner gained the required qualification as envisaged under the rules governing the service for appointment to the post of Assistant Professor. The respondents issued guidelines for the grant of salary to the Guest Lecturers and as per the respondents, the Guest Lecturer, who is eligible as per the qualification prescribed for the post, will be granted the salary of ₹57,700/- and ineligible Guest Faculty Lecturer will be granted salary of ₹35,400/-.

As per the petitioner, after the petitioner obtained the degree, the same was sent for verification to the C. Mothilal Jawaharlal University, Meghalaya, which degree was duly verified by the authorities concerned that the petitioner has obtained Ph.D degree in Computer Science. The copy of the said verification has been appended as Annexure P-9.

After the degree of the petitioner was verified, the petitioner raised the claim for the grant of the entitled remuneration of ₹57,700/-, which benefit was granted to the petitioner w.e.f. 11.02.2013 onwards. A copy of the said recommendation dated 10.06.2019 is appended as Annexure P-11.

It is the case of the petitioner that after the recommendation of the pay scale of ₹57,700/- in 2019, the same was being given to the petitioner but after the grant of the said pay scale, the respondent-department again started a communication with the C. Mothilal Jawaharlal

University, Meghalaya so as to enquire about attendance of petitioner for the course work, which the petitioner had undertaken while completing the Ph.D degree. The said letter was written on 22.07.2019 and was duly replied stating that the course was undertaken by the petitioner in the month of May, 2011 to June, 2011. Thereafter, the department is in correspondence with C. Mothilal Jawaharlal University, Meghalaya seeking certain clarifications.

Though, the said clarifications were still under communication, order dated 12.09.2020 (Annexure P-18) was passed by respondent no. 3- College reducing the salary of the petitioner from ₹57,700/- to ₹35,400/- on the ground that the Ph.D degree obtained by the petitioner has not been accepted by the department keeping in view the pending communications between the Education Department as well as C. Mothilal Jawaharlal University, Meghalaya. The said order is under challenge in the present petition.

After notice of motion, the respondents have filed the reply, wherein, it has been mentioned that though the petitioner was given the remuneration of ₹57,700/- w.e.f. 27.06.2019 as per the Government Policy but as certain doubts have arisen qua the award of Ph.D degree to the petitioner by C. Mothilal Jawaharlal University, Meghalaya, which is still under communication, after the doubts are clarified by the C. Mothilal Jawaharlal University, Meghalaya, appropriate decision will be taken whether the petitioner is entitled for remuneration of ₹57,700/- to ₹35,400/- or not.

I have heard learned counsel for the parties and have gone

through the record with their able assistance.

It is a matter of fact and a conceded position keeping in view the documents on record that the degree of Ph.D obtained by the petitioner from C. Mothilal Jawaharlal University, Meghalaya was got verified by the respondent-department. The C. Mothilal Jawaharlal University, Meghalaya accepted the award of Ph.D degree to the petitioner after which, the remuneration of the petitioner was increased to ₹57,700/-, which a Guest Faculty Lecturer is entitled for, who fulfill the required qualification for appointment to the said post as envisaged under the rules governing the service. Once the said fact was accepted and the petitioner's remuneration was extended, the said benefit already extended could not have been withdrawn by the respondents in an arbitrary and unilateral manner without giving any opportunity of hearing to the petitioner.

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. The relevant para of ***Daffodills Pharmaceuticals's case (supra)*** is as under:-

“15. In the present case, even if one assumes that

Surender Chaudhary, the accused in the pending criminal case was involved and had sought to indulge in objectionable activities, that ipso facto could not have resulted in unilateral action of the kind which the State resorted to- against Daffodils, which was never granted any opportunity of hearing or a chance to represent against the impugned order. If there is one constant lodestar that lights the judicial horizon in this country, it is this: that no one can be inflicted with an adverse order, without being afforded a minimum opportunity of hearing, and prior intimation of such a move. This principle is too well entrenched in the legal ethos of this country to be ignored, as the state did, in this case.

16. The High Court, in the opinion of this court, fell into error in holding that in matters of award of public contracts, the scope of inquiry in judicial review is limited. Granted, such jurisdiction is extremely circumscribed; no doubt the court had refused to grant relief to Daffodils against its plea of wrongful rejection of its tender. However, what the impugned judgment clearly overlooks is that the action of the state, not to procure indefinitely, on an assumption of complicity by Daffodils, was in flagrant violation of principles of natural justice.”

The relevant paragraph of the ***Chamoli's case (supra)*** is as under:-

“19. The compliance of natural justice in domestic/disciplinary inquiry is necessary has long been established. This Court has held that even there are no specific statutory rule requiring observance of natural justice, the compliance of natural justice is necessary. Certain ingredients have been held to be constituting integral part of holding of an inquiry. The Apex Court in [Sur Enamel and Stamping Works Pvt. Ltd. v. Their Workmen](#) reported in (1964) 3 SCR 616 has laid down following:-

“... An enquiry cannot be said to have been properly held unless, (i) the employee proceeded against has been informed clearly of the charges levelled against him, (ii) the witnesses are examined – ordinarily in the presence of the employee – in respect of the charges, (iii) the employee is given a fair opportunity to cross-examine witnesses, (iv) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter, and (v) the inquiry officer records his findings with reasons for the same in his report.”

Keeping in view the law cited hereinbefore, it is clear that no adverse order can be passed against an employee without giving any opportunity of hearing. In the present case, it is a conceded position before this Court that no show cause notice was ever served before reducing the remuneration of the petitioner from ₹57,700/- to that of ₹34,500/-. That being so, the impugned order dated 12.09.2020 (Annexure P-18) has been passed in contravention of the rules of natural justice and cannot be sustained.

Even otherwise as of now, there is a clear verification of the Ph.D degree obtained by the petitioner from C. Mothilal Jawaharlal University, Meghalaya. Nothing has been placed on record that the said degree is forged or has been obtained by fraud. Even as per the respondent, the department is in communication with the said University for clarification of certain doubts. That being so, merely because some doubts have been raised by the respondent-department with the University, the same will not nullify the degree of the petitioner, which has already been verified by the C. Mothilal Jawaharlal University, Meghalaya or will give a

jurisdiction to the respondent-department to treat the said degree as a nullity so as to withdraw the remuneration of ₹57,700/-.

The impugned order dated 12.09.2020 (Annexure P-18) is quashed. The petitioner is held entitled for the remuneration of ₹57,700/- from the date, it was initially granted along with arrears. However, it is made clear that in case, any evidence come on record with regard to any irregularity in the Ph.D degree of the petitioner, the respondents will be competent to pass appropriate order but only after observing the rules of natural justice as envisaged under the law.

Writ petition is allowed in above terms.

November 09, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes