

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CM-12639-CWP-2021 in/and
CWP-36662-2019
Date of Decision :06.07.2022

Jagdish Chander

..Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ivneet Singh Pabla, Advocate for the petitioner.

Mr. Raman Kumar Sharma, Addl. A.G. Haryana.

Mr. I.S. Sidhu, Advocate for respondent No.5.

Ms. Manjri Joshi, Advocate for respondent No.6.

Harsimran Singh Sethi, J. (Oral)

CM-12639-CWP-2021

Application is allowed.

Reply filed on behalf of respondent No.5 is taken on record.

CWP-36662-2019

In the present writ petition, the grievance of the petitioner is that a fresh pension payment order has been issued by the respondents on 18.06.2019 (Annexure P/2), by which, pension of the petitioner has been reduced from Rs.14,120/- to Rs.13,125/- with effect from the date, the petitioner retired from service i.e. 31.03.2008 and recovery of an amount of Rs. 3,17,076/- vide letter dated 06.12.2019 (Annexure P/3) from the petitioner has been ordered.

Learned counsel for the petitioner argues that in the present case, reduction of the pension as well as recovery is contrary to the settled principle of law as before passing pension payment order dated 18.06.2019 (Annexure P/2) by the respondents, no opportunity of hearing was given to the petitioner. Learned counsel for the petitioner argues that as per the settled principle of law before passing any order, which causes prejudice to an employee or pensioner, an opportunity of hearing has to be given to the employee concerned.

Learned counsel for the petitioner further argues that even otherwise, the petitioner is a retired employee and no recovery can be done from him even after refixation of his pension, keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in **State of Punjab and others Vs. Rafiq Masih (White Washer) etc., 2015(1) S.C.T., 195.**

Learned State counsel submits that though, in the reply, refixation of pay is being defended in respect of non-issuance of show cause notice before passing the impugned order but, the said act on the part of the respondents is contrary to the settled principle of law and, therefore, pleads that pension payment order dated 18.06.2019 (Annexure P/2) be treated as withdrawn with liberty to the respondents to pass a fresh order after observing rules of natural justice.

Learned State counsel further submits that no further recovery will be done from the petitioner and the petitioner will be issued appropriate show cause notice before any action is to be taken in respect of the entitlement of the petitioner for the grant of particular amount of pension.

Learned State counsel submits that in case after issuance of show cause notice and considering the reply, if any, filed by the petitioner, the pension of the petitioner is to be reduced, an appropriate, order in accordance with law, will be passed. Learned State counsel further submits that in respect of the recovery also, settled principle of law will be kept in mind by the respondents that whether recovery can be done even after re-fixation of the pension of the petitioner or not.

Learned counsel for the petitioner submits that keeping in view the statement made by the learned State counsel, no further grievance of the petitioner survives in the present writ petition and the same may be disposed off having been not pressed any further with liberty to the petitioner to avail an appropriate remedy in case, the petitioner feels aggrieved against any action of the respondents in respect of the fixation of his pension.

Ordered accordingly.

July 06, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No