

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

214

**CWP No. 13106 of 2016
Date of Decision: 30.05.2023**

SHIV CHARAN

.....Petitioner

Vs

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. K.S.Malik, Advocate
for the petitioner.

Mr.Naveen Singh Panwar, DA.G.Haryana.

RAJ MOHAN SINGH, J.(Oral)

1. This petition has been filed by the petitioner under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of Mandamus directing the respondents to release full pension and pensionary benefits vis-a-vis gratuity, earned leave and other admissible benefits as per entitlement of the petitioner along with interest.

2. The grievance of the petitioner is that at the time of his retirement on 30.04.2010, his basic pay was Rs.16,930/- and the last pay drawn was Rs.26,732/-, but the respondent department has revised the pay of the petitioner in view of memo No. 7E (1) 2010/10363 dated 25.05.2010 (after about one month of the retirement of the petitioner), thereby, reducing the basic pay + grade pay to the tune of Rs.12,190/-. On the basis of aforesaid reduced basic pay + grade pay, the

respondents have calculated the pensionary benefits of the petitioner, which according to the petitioner is violative of principles of natural justice. The respondents have taken into consideration the reduced revised pay scale, which was granted after the retirement of the petitioner without hearing him and without issuing any show cause notice.

3. On 30.01.2023, it was noticed that as per the affidavit filed by Rajbeer Kaur, District Food and Supplies Officer, the details were found to be totally evasive as the same do not correspond to the necessary details, which were required to be filed by the respondents in the present case. Faced with this situation, learned State counsel sought more time to file better affidavit of the competent person and the case was adjourned for today.

4. The order dated 30.01.2023 has not been complied with so far. As per the case of the petitioner, the petitioner was appointed as Octroi clerk in Municipal Committee on 01.08.1976. He had rendered his service up to 03.01.2000 i.e. for 23 years, 5 months and 2 days and thereafter, he was transferred to Food and Supplies Department and his pay was protected. The petitioner has rendered his satisfactory service in Food and Supplies Department till the date of his superannuation on 30.04.2010. The total service rendered by the petitioner is of 33 years, 8 months and 29 days. At the time of his retirement, his basic pay was Rs.16,930/- and the last pay drawn was Rs.26,732/-.

5. The pensionary benefits have been computed on the basis of reduced pay of the petitioner, which was done after one month of his retirement that too without issuing any show cause notice to the petitioner.

6. In my considered opinion, the reduction in pay scale

after retirement of the petitioner that too without giving him any opportunity of hearing is wholly illegal. At the time of reducing the pay scale, the petitioner was required to be heard as the penal consequences have flown from such reduction in the absence of any opportunity of hearing.

7. In view of the aforesaid factual position, this writ petition is disposed of with a direction to the respondent No.2 to release the pension and other pensionary benefits of the petitioner as per his entitlement on the date of retirement without insisting upon any such calculations based on reduced pay scale. After calculating the pension of the petitioner if the competent authority, if so advised, intends to reduce the pay scale of the petitioner, the same be done only after providing adequate opportunity of hearing to the petitioner.

8. It is made clear that the pension case of the petitioner has to be done on the basis of pay scale applicable at the time of retirement at the first instance and thereafter, proposed action, if any, to be taken on the basis of revision of pay scale be done subsequently in accordance with law.

(RAJ MOHAN SINGH)
JUDGE

May 30, 2023

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whether speaking/non speaking	yes/no
whether reportable/non reportable	yes/no