

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

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CWP-1395-2017

Date of Decision: 16.01.2023.

Dr. Rita G. Singh

...Petitioner.

Versus

Union of India and others

...Respondents.

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

.....

Present: Mr. Gaurav Chopra, Senior Advocate with
Mr. Rishabh Bajaj, Advocate and
Mr. Saurabh Bajaj, Advocate
for the petitioner.

Mr. Vipul Aggarwal, Senior Panel Counsel
for respondent No.1-Union of India.

Mr. Sumeet Jain, Additional Standing Counsel,
for respondents No.2, 3 & 5-U.T., Chandigarh.

Mr. Harmanjit Singh Jugait, Advocate
for respondent No.4.

M.S. RAMACHANDRA RAO, J. (Oral)

The writ petitioner has challenged in this writ petition order dt.02.05.2016 in OA-060/00613/ 2015 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh.

The issue raised in the OA was “whether gratuity payable to the petitioner could have been withheld by respondents No.2 and 3 in violation of principles of natural justice?”

In the impugned order passed by the Tribunal at paragraph 12, this contention was considered, and it was held that since in the past, a large

number of letters were written to the petitioner for vacating a government house in her occupation and asking her to pay penal rent, opportunity need not be given to her. It was further observed that Rule 9.16 of the Punjab Civil Services Rules (Vol.II), stipulates that dues shall be adjusted against the amount of gratuity becoming payable and in view of the said Rule also, no opportunity of hearing was required to be given before adjusting the gratuity amount of the petitioner against the penal rent recoverable from her.

No doubt, Rule 9.16 permits the adjustment of the type mentioned in the impugned order but it does not prohibit compliance with principles of natural justice. Withholding gratuity from a pensioner has civil consequences, and therefore there has to be compliance of natural justice before an order is passed withholding any amount of gratuity. In *Institute of Chartered Accountants Vs. L.K. Ratna and others, 1987, AIR, 71* the Supreme Court held that principles of natural justice will have to read into even a statute where civil consequences follow from such non compliance unless there is a specific provision in the relevant statute or the Rule making principles of natural justice inapplicable. There is no such prohibition in the rules providing for payment of gratuity in the instant case.

We, therefore, do not agree with the view expressed by the Central Administrative Tribunal that opportunity of hearing need not be given while deducting amount from the gratuity amount payable to the petitioner by respondents No.2 and 3.

Merely because in the past several letters were written to her for vacating a government house with liability to pay penal rent, it does not follow that a deduction from the gratuity can be made without complying with principles of natural justice. Admittedly, in such letters, there was no

intimation given to the petitioner that any adjustment out of gratuity amount would be made.

In this view of the matter, the writ petition is allowed and order dt.02.05.2016 in OA-060/00613/2015 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh and also order dt.23.09.2015 passed by respondent No.3 are set aside; respondents No.2/3 are directed to issue a show cause notice to the petitioner about the deduction made from the gratuity amount and justification therefor within two weeks from the date of receipt of a copy of this order; the petitioner is granted four weeks time from the date of receipt of the said show cause notice to reply to the same; and then a reasoned order shall be passed by the respondents and communicated to the petitioner within four weeks thereafter. The amount already deducted from the gratuity payable to the petitioner shall abide by the result of the above exercise.

We also make it clear that the order passed by respondent No.2 pursuant to the docket order dt.17.02.2022 passed by this Court in this writ petition, shall not be taken into account while passing the fresh order by respondents No.2.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

16.01.2023

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