

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

2023:PHHC:146248
CWP-18907-2016 (O&M)
Date of Decision: 17.11.2023

Barinder Kumar

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Virinder Kumar Shukla, Advocate for the petitioner.
 Mr. R.K.Kapur, Addl. AG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. Learned counsel for the petitioner submits that the petitioner was served with an order dated 25.11.2009, issued by the Senior Medical Officer, whereby his pay already fixed on completion of 16 and 24 years of service was revised and refixed thereby reducing the same to Rs.8100/- instead of 8375/- w.e.f. 01.01.2002 on completion of 16 years of service and similarly his pay was revised and revised thereby reducing the same to Rs.9475/- instead of 9750/- w.e.f. 01.11.2006, on completion of 24 years of service.

2. Learned counsel submits that the action of the respondents was taken without giving him opportunity of being heard, as no show cause notice was ever issued to him while passing of the order reducing his pay. Learned counsel submits that the petitioner has not represented his case and, therefore, there was no occasion to make recovery from him.

3. I have considered the submission.

4. This Court finds that the petitioner entered into service as a Pharmacist on *adhoc* basis 01.06.1976 and his services were regularized w.e.f. 03.01.1977. Thereafter, the petitioner was promoted as Chief Pharmacist in the year 2008 and stood retired on 31.08.2015, whereafter, he

challenged the order passed against him in 2009, by filing this writ petition in the year 2016.

5. Admittedly, the petitioner was granted selection grade of 1640-2925 w.e.f. 01.01.1986, in terms of the Punjab Civil Services (Revised Pay) Rules, 1988. Thus period of service from 1977 upto 1987 already having been considered for granting of selection grade could not have been again considered for granting the benefit of ACP. He was given the benefit of proficiency step up w.e.f. 03.01.1995 and was subsequently granted the benefit of placement on completion of 24 years of service. The reason for re-fixation has been answered by the respondents in their reply stating that after proper verification, it was found that the petitioner has already received extra pay amounting to Rs.62,888/-. The amount was, therefore, recovered from his salary which he did not challenge at that relevant time.

6. Keeping in view the fact that the petitioner had acquiesced to the recovery at the relevant time and thereafter filed the present writ petition after a period of six years, this Court refrains from cancelling the recovery made from his salary, which was on account of re-fixation of salary correctly in terms of ACP on completion of 8, 16 and 24 years of service.

7. The writ petition is misconceived and is accordingly dismissed.

8. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

17.11.2023.

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1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No