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

207 **CWP-6709-2015**
Date of Decision: 03.08.2023

Joga Singh **.... Petitioner**

Versus

State of Punjab and others **.... Respondents**

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Arjun Dev, Advocate
for the petitioner.

Mr. R.K. Kapoor, Addl. A.G., Punjab.

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SANJEEV PRAKASH SHARMA, J (ORAL)

1. This is a civil writ petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 13.03.2015 (Annexure P-6), passed by respondent No.3, whereby, pay scale of Rs.1800-3200 granted to the petitioner w.e.f. 01.01.1986, vide letter dated 28.03.2013 has been withdrawn, in terms of the judgment of the Hon'ble Court.

2. Learned counsel for the petitioner submits that the petitioner attained superannuation on 28.02.2003. In pursuance of the decision of this Court, the Craft Instructors were granted pay scale of Rs.1800-3200 w.e.f. 01.01.1986 and accordingly, the salary of the petitioner was fixed in the pay scale of Rs.1800-3200, vide order dated 28.03.2013 and was also paid arrears accordingly. However, without there being any order of this Court, the respondents have withdrawn the said scale, without giving any notice to the petitioner.

3. A reply has been filed and while the respondents agreed that there is no order of the High Court for withdrawing the pay scale of the petitioner but it is stated that principally it was decided to grant the pay scale of Craft Instructor only to those who are working in terms of verbal orders issued by the Officers dated 18.05.2010 and therefore, the Principal was competent to withdraw the pay scale. A copy of the letter dated 02.03.2015 of Additional Director Industrial Training Wing has been placed on record along with the reply. By another affidavit filed by the respondents, it is stated that there is a typographical mistake in the impugned order. In fact, there is no order of the High Court but there is an order issued by the Assistant Director (Establishment) dated 28.02.2013 which was inadvertently mentioned as 28.03.2013.

4. I have heard learned counsel for the parties at length and have considered the submissions.

5. Taking into consideration the contents of the reply filed by the respondents, this Court is satisfied that the petitioner has been unnecessarily forced to enter into the present litigation and the order has been passed wrongfully. In fact, the petitioner who had attained superannuation in 2003 was granted the said benefit, as the pay scale of Craft Instructor had been held to be Rs.1800-3200 w.e.f. 01.01.1986. He was rightly granted the revised pay scale and arrears thereto and his pension was accordingly fixed. Thereafter, the impugned order has been passed based on similar verbal orders issued by an unknown person, as is apparent from the record (Annexure R-3) dated 02.03.2015. The said verbal orders directed that the pay scale shall be applicable w.e.f. 01.01.1986 to only working Crafts Instructor. As on 01.01.1986, the petitioner was working as Instructor. Since he retired in 2003 and therefore, the payment was required to be made

to him. Even otherwise, the pay scale already granted to employees and who have retired, cannot be taken away on the basis of such verbal instructions. The action is wholly arbitrary and autocratic, not only violative of Article 14 but also would be violative of Article 21 of the Constitution of India as the petitioner already stood retired from service.

6. Keeping in view the aforesaid findings, the impugned order dated 13.03.2015 (Annexure P-6) is set aside. The basis of the order dated 28.02.2013 also stands set aside and the petition deserves to be allowed.

7. Accordingly, the present petition is allowed. The respondents are directed to revise the pay and any amount recovered shall be refunded to the petitioner along with interest @ 12% per annum i.e. the interest rate which was existing at that relevant time. The costs of Rs.20,000/- shall also be paid to the petitioner on the litigation being forced on the retired employee and the said amount of costs shall be recovered from the erring officers and shall not be a burden on the State exchequer. The compliance shall be made within a period of three months from today.

(SANJEEV PRAKASH SHARMA)
JUDGE

03.08.2023
D.Bansal

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