214

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.27230 of 2017 (O&M)
Date of Decision: 11.04.2023

GIAN CHAND
......Petitioner

Vs

UTTAR HARYANA BIJLI VITRAN NIGAM LTD AND OTHERS
.....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Shvetanshu Goel, Advocate
for the petitioner.

Mr. R. K.S. Brar, Advocate
for the respondents.

****

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of mandamus, directing the respondents-authorities to release the amount of Rs.5,39,557/- deducted from the pensionary benefits of the petitioner.

[2]. According to learned counsel for the petitioner, the aforesaid amount was deducted without issuing any show cause notice to the petitioner and the amount is legally required to be released in favour of the petitioner along with interest.

[3]. According to the stand taken by the respondents, the aforesaid amount has been bifurcated into two parts i.e. Rs.4,70,322/- was retained by the Department on account of some audit objection, which was ultimately cleared and on finding no impediment for releasing the aforesaid amount, the same has been released to the petitioner along with interest. An acknowledgment dated 10.04.2023 has been placed on record which has been duly signed by the petitioner himself. Qua remaining amount of Rs.69,235/-, the stand of the respondents is that the aforesaid amount was deducted as there was wrong fixation of pay due to wrong grant of annual increment to the petitioner to which the petitioner was not entitled. On rectification, the said amount has been recovered from the pensionary benefits of the petitioner.

[4]. Admittedly, the aforesaid amount of Rs.69,235/- has been deducted from the pensionary benefits of the petitioner without issuing any show cause notice to the petitioner. The deduction resulting in financial repercussions can only be made after hearing the aggrieved party.

[5]. Evidently, no show cause notice was issued to the petitioner. Even if the undertaking alleged to have given by the petitioner is found to be factually correct, the same would not *ipso facto* result in automatic deduction of the aforesaid amount

without issuing any show cause notice to the petitioner.

[6]. In view of aforesaid admitted position, the deduction to the extent of Rs.69,235/- on account of wrong fixation of pay due to wrong grant of annual increment is set aside. Consequently, the amount of Rs.69,235/- recovered from the pensionary benefits of the petitioner is ordered to be refunded to him along with interest @ 6% per annum from the date of recovery till final payment to the petitioner. The competent authority would be at liberty to proceed afresh after issuing show cause notice to the petitioner in accordance with law.

[7]. Disposed of.

(RAJ MOHAN SINGH)
JUDGE

April 11, 2023
Atik

Whether speaking/reasoned Yes/No

Whether reportable Yes/No