

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-22957-2022 (O&M)
Date of Decision :-03.10.2023

Prabhu Dayal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Deepak Gupta, Advocate for the petitioner.

Mr. Sourabh Mohunta, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

Replication to the written statement filed on behalf of the respondents in the Court today is taken on record.

Present petition has been filed by a 72 years old senior citizen raising a grievance that after 20 years of his retirement, his pension has been reduced and a recovery is being done from him, which action on the part of the respondents is totally arbitrary and illegal.

Learned counsel for the petitioner argues that the petitioner had taken voluntary retirement from service on 31.07.2001 and he was reverted from the post of Sub Assistant Superintendent to that of a Clerk two days prior to his retirement and after his retirement, keeping in view his last drawn salary, his retiral benefits were fixed and he was being paid his

pension accordingly.

As per the petitioner, in the year 2022, the petitioner has submitted a representation with the respondents for revising his pension but rather than raising the same from Rs.14,800/-, his pension was reduced to Rs.12,600/- and that too without giving him any show cause notice hence, the order reducing the pension of the petitioner after 20 years of his retirement is totally arbitrary and illegal and is liable to be set aside.

To the claim of the petitioner, a reply has been filed by the respondents in which it has been mentioned that claim of the petitioner for raising his pension from Rs.14,800/- was received, which was forwarded to the authority concerned and it was found that petitioner was wrongly getting pension of Rs.14,800/- per month whereas, the same should have been Rs.12,600/- hence, an appropriate order reducing the pension of the petitioner from Rs.14,800/- to Rs.12,600/- has been passed by the authority concerned.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a conceded fact that the petitioner voluntarily retired from service on 31.07.2001 and after 21 years of his retirement, his pension is being reduced and that too without issuing him any show cause notice or giving any opportunity of hearing to him. Further, nothing has come on record that there is any misrepresentation on the part of the petitioner to claim any amount hence, in the facts and circumstances of the present case, no recovery can be done from the petitioner keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in *State of*

Punjab and others Vs. Rafiq Masih (White Washer) etc., 2015(1) S.C.T.,

195.

Further, action of the respondents in reducing the pension of the petitioner after 21 years of his retirement and thereafter ordering recovery of the excess amount paid to him, is contrary to the settled principle of law settled by Hon'ble Supreme Court of India in **Civil Appeal No.9417-2019** tilted as **M/s Daffodils Pharmaceuticals Ltd. and another vs. State of U.P. and another,** decided on 13.12.2019. Relevant paragraphs of the judgment are as under:-

“15. In the present case, even if one assumes that Surender Chaudhary, the accused in the pending criminal case was involved and had sought to indulge in objectionable activities, that ipso facto could not have resulted in unilateral action of the kind which the State resorted to- against Daffodils, which was never granted any opportunity of hearing or a chance to represent against the impugned order. If there is one constant lodestar that lights the judicial horizon in this country, it is this: that no one can be inflicted with an adverse order, without being afforded a minimum opportunity of hearing, and prior intimation of such a move. This principle is too well entrenched in the legal ethos of this country to be ignored, as the state did, in this case.

16. The High Court, in the opinion of this court, fell into error in holding that in matters of award of public contracts, the scope of inquiry in judicial review is limited. Granted, such jurisdiction is extremely circumscribed; no doubt the court had refused to grant relief to Daffodils against its plea of wrongful rejection of its tender. However, what the impugned judgment clearly overlooks is that the action of the state, not to procure indefinitely, on an assumption of complicity by Daffodils, was in flagrant violation of principles of natural justice.”

Keeping in view the facts and law cited hereinbefore, action of the respondents in reducing the pension of the petitioner from Rs.14,800/- to Rs.12,600/- is set aside. The petitioner will remain entitle for pension of

Rs.14,800/-, which he was getting prior to the revision of his pension and recovery, if any, effected from the petitioner during the interregnum will also be refunded to him forthwith.

As the present order is passed on technicalities, the respondents are at liberty to pass a fresh order in accordance with law in case the respondents intend to do so and is permissible in the facts and circumstances of the case.

Present petition stands allowed in above terms.

Civil miscellaneous application pending, if any, is also disposed of.

October 03, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No