

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

265

CWP-4671-2022
Date of decision : 28.02.2024

Arvinder SinghPetitioner

Versus

State of Punjab and ors. Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. K.B. Raheja, Advocate
for the petitioner.

Mr. Gagneshwar Walia, Addl.A.G. Punjab

AMAN CHAUDHARY, J.

1. The prayer in the present Civil Writ Petition filed under Articles 226/227 of the Constitution of India, is for quashing order dated 09.02.2022, Annexure P-3 and order dated 22.02.2022, Annexure P-4, whereby the amount has been ordered to be recovered from the petitioner.
2. Learned counsel would submit that the petitioner, who was initially appointed on Class IV post, was promoted as a Driver. However, he was reverted to the said post and recovery had been ordered to be effected vide the impugned orders, without issuing any notice to him.
3. Learned State counsel is unable to support the impugned orders. However, prays that in the eventuality of setting aside of the same, liberty be granted to the respondents to pass afresh, after affording an opportunity of hearing to the petitioner.
4. Heard the learned counsel.

It would be worthwhile to refer to the judgment of **Rajasthan**

State Road Transport Corporation vs. Bal Mukund Bairwa, (2009) 4 SCC 299, wherein Hon’ble the Supreme Court by relying on the judgments in **Sawai Singh vs. State of Rajasthan**, (1986) 3 SCC 454, **A.R. Antulay vs. R.S. Nayak**, (1988) 2 SCC 602 and **Narinder Mohan Arya vs. United India Insurance Co. Ltd.**, (2006) 4 SCC 713 observed that an order passed in violation of the principles of natural justice, would be nothing but a nullity, since the purpose of it is prevention of miscarriage of justice, thus it is the pragmatic requirement of fair play in action to observe the same.

6. Considering the facts and circumstances of the case in light of the afore-referred judicial pronouncement, the present writ petition is allowed only on the ground of the orders having been passed in derogation of the established principle of natural justice and fairness. As a corollary, the orders dated 09.02.2022 and 22.02.2022 (Annexure P-3 and P-4) are hereby set aside, reserving the respondents with a liberty to pass after affording to the petitioner a proper opportunity of being heard. Till then, the recovery shall remain stayed.

7. It is made clear that nothing observed herein would be construed to be an expression of opinion on the merits of the case.

(AMAN CHAUDHARY)
JUDGE

28.02.2024
G Arora

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