



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(220)

CWP No. 6286 of 2021 (O&M)
Date of Decision : 18.12.2024

Ranjit Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ish Puneet Singh, Advocate for the petitioner.

Mr. Swapan Shorey, Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the order dated 18.01.2021 (Annexure P-2) by which the salary of the petitioner has been re-fixed so as to reduce the same.
2. Learned counsel for the petitioner argues that the order dated 18.01.2021 (Annexure P-2) cannot be sustained as the same has been passed in violation of the settled principle of law that no order causing prejudice to an employee can be passed without giving any opportunity of hearing, hence, the impugned order dated 18.01.2021 (Annexure P-2) is liable to be set-aside.
3. Upon notice of motion, the respondents have filed the reply, wherein, the respondents have conceded the fact that the salary of the petitioner has been re-fixed keeping in view the fact that certain undue benefits were given to the petitioner at the time of fixing of his salary in the year 2006.



4. Learned counsel for the respondents submits that after the passing of the order dated 18.01.2021 (Annexure P-2), the notice is also given to the petitioner, copy of which has been appended as Annexure R-2 dated 15.03.2023, hence, the rules of natural justice have been complied with hence, the claim of the petitioner is liable to be rejected.

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

6. It is a settled principle of law settled by the Hon'ble Supreme Court of India in Civil Appeal No. 2265 of 2011 titled as ***Chamoli District Co-operative Bank Ltd through its Secretary/Mahaprandhak and another vs. Raghunath Singh Rana and others***, 2016(12) SCC 204, decided on 17.05.2016 and in Civil Appeal No. 9417 of 2019 titled as ***M/s Daffodills Pharmaceuticals Ltd. and another vs. State of U.P. and another*** 2019 (12) JT 283, decided on 13.12.2019 that where any order passed by the authority concerned causes prejudice to an employee, especially financial liability, an opportunity of hearing is must and no order causing prejudice to an employee can be passed by an employer unilaterally. The relevant para of ***Daffodills Pharmaceuticals's case (supra)*** is 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.”

The relevant paragraph of the ***Chamoli's case (supra)*** is as under:-

“19. The compliance of natural justice in domestic/disciplinary inquiry is necessary has long been established. This Court has held that even there are no specific statutory rule requiring observance of natural justice, the compliance of natural justice is necessary. Certain ingredients have been held to be constituting integral part of holding of an inquiry. The Apex Court in [Sur Enamel and Stamping Works Pvt. Ltd. v. Their Workmen](#) reported in (1964) 3 SCR 616 has laid down following:-

“... An enquiry cannot be said to have been properly held unless, (i) the employee proceeded against has been informed clearly of the charges levelled against him, (ii) the witnesses are examined – ordinarily in the presence of the employee – in respect of the charges, (iii) the employee is given a fair opportunity to cross-examine witnesses, (iv) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter, and (v) the inquiry officer records his findings with reasons for the same in his report.”



7. Keeping in view the above, the order dated 18.01.2021 (Annexure P-2) cannot be sustained as the same has been passed without following the rules of natural justice.

8. With regard to the claim of the respondents that a post decisional hearing was given in the year 2023, the same also cannot come to the rescue of the respondents so as to save the impugned order, which was passed two years before the post decisional show cause notice was given. Once, the respondents have already reduced the salary giving the show cause notice subsequently is only to fill the lacunae, which is impermissible.

9. Order dated 18.01.2021 (Annexure P-2) is accordingly set-aside. The respondents are directed to give due opportunity to the petitioner to represent against the proposed re-fixation of his salary and whatever objections are raised by the petitioner to the said proposal be considered and appropriate order be passed. In case, after giving due opportunity to the petitioner, the pay is to be re-fixed, the same can be re-fixed w.e.f. the date of passing of the initial order dated 18.01.2021 (Annexure P-2).

10. Petition is allowed in above terms.

11. Pending miscellaneous application, if any, also stands disposed of.

December 18, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No