

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

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CWP-4306-1998  
Date of decision: 12.03.2024

Bachan Singh  
.....Petitioner  
Versus  
State of Punjab and others  
...Respondents

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**  
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Present : Mr. V.K. Shukla, Advocate for the petitioner.  
Mr. Satnam Preet Singh, DAG, Punjab.

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**AMAN CHAUDHARY. J.**

1. The prayer in the present Civil Writ Petition filed under Articles 226/227 of the Constitution of India, is to issue a writ in the nature of certiorari/ mandamus, for quashing the order dated 01.01.1998, Annexure P-5 and further directing the respondents to consider the case of the petitioner for grant of one additional increment on completion of 18 years of service under proficiency step up scheme.
2. Learned counsel would submit that insofar as the prayer of the petitioner for grant of one additional increment on completion of 18 years of service under proficiency step up scheme, the present petition have been rendered infructuous as the same stands granted w.e.f. 19.10.1991, during the pendency of the present petition vide order dated 24.08.2001. However, insofar as the quashing of order dated 01.01.1998 is concerned, by which the proficiency step up granted w.e.f. 1.1.1987 was withdrawn as according to the respondents it was to be granted from 19.10.1991 and recovery of the excess amount was to be made, which was passed without issuing any show cause notice to him.
3. Learned State counsel is unable to support the impugned order. 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. Heardthe learned counsel.
5. It would be gainful 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. In wake of the afore-referred dictum of law, the present writ petition is partly allowed only on the ground of the order having been passed in derogation of the established principle of natural justice and fairness. As a sequel thereto, the order dated 01.01.1998, Annexure P-5, is 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

12.03.2024  
Hemant

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No