

311 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision : 27-11-2024

1. **CWP-25251-2017 (O&M)**

NAVDEEP KAKKAR Petitioner(s)

VERSUS

STATE OF PUNJAB AND OTHERS Respondent(s)

And

2. **CWP-26331-2017 (O&M)**

GURPREET SINGH AND ORS. Petitioner(s)

VERSUS

STATE OF PUNJAB AND OTHERS Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vivek Sharma, Advocate
 for the petitioner in CWP No.25251 of 2017.

 Mr. Surinder Garg, Advocate
 For the petitioner in CWP No.26331 of 2017.

 Mr. Arun Gupta, DAG Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

Present set of two writ petitions involve common question of law in the background of common set of facts and thus they are being decided by a common order.

In the present petition, the grievance being raised by the petitioner(s) is that his Grade Pay has been reduced from Rs.5400/- to Rs.5000/- and that too prospectively without giving any show cause notice.

Upon notice of motion, the respondents have filed their reply.

In the reply, the respondents have stated that the pay scale of Master Cadre was Rs.10300-34800+5000 G.P. w.e.f. 01.12.2011. It has been further submitted that the petitioner(s) were granted the Grade Pay of Rs.5400/- by the Head Mistress of the High school where the petitioner(s) were working that too without jurisdiction and without seeking any instructions from the Government i.e. employer. It has been further mentioned that the petitioner(s) were asked to file his reply to the show cause notice/impugned order, copy of which has been appended as Annexure P-2 but the petitioner(s) chose not to file any objection hence, the impugned order was passed.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

The Rules of Natural Justice are to be complied with only in case, the grievance is raised that in case a show cause notice would have been given, the employee concerned had a valid reply to the proposed action being taken. In the present case, it is a conceded position that the pay scale on which the petitioner(s) are working is Rs.10300-34800+5000 G.P. w.e.f. 01.12.2011. Once, the pay scale of the post only envisage Grade Pay of Rs.5000/-, how can respondent No.4 on her own, without being a competent authority, grant the Grade Pay of Rs.5400/- to the petitioner(s). This shows that the order granting the benefit of Rs.5400/- Grade Pay was passed without jurisdiction and without entitlement. Hence, the same is to be treated as a void order so as to claim any right he said benefit.

Even otherwise, in the impugned order, before withdrawing the Grade Pay of Rs.5400/- so as to grant the Grade Pay of Rs.5000/-, reply was

asked from the petitioner(s), which they never gave. Therefore, no grievance can be made by the petitioner(s) that the Rules of Natural Justice have not been violated. Hence, keeping in view the facts and circumstances of the present case, the respondents are within their jurisdiction to withdraw the Grade Pay of Rs.5400/- so as to grant the Grade Pay of Rs.5000/- as envisaged under the Rules from the date, the said benefit is granted and even the recovery can be made from the petitioner(s), as the benefit was granted by an authority not competent to do so.

Hence, the present set of two petitions stands dismissed.

Pending application, if any, also stands disposed of.

Photocopy of this order be placed on the file of other connected case.

27-11-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
 Whether reportable: YES/NO