

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

244

CWP-36898-2019
Date of Decision:22.04.2024

Nisha Rana

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON’BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Vikas Singh, Advocate, for the petitioner

Mr. Satnampreet Singh, DAG, Punjab

AMAN CHAUDHARY J. (Oral)

1. The prayer in the present petition is for directing the respondents not to reduce the salary of the petitioner by withdrawing the 4 years higher scale granted under the Assured Career Progression Scheme on 28.05.2015, as also for quashing the order dated 25.01.2019, Annexure P-3, whereby pay of the petitioner has been re-fixed and reduced and the instructions dated 01.01.2018, Annexure P-4, if such instruction is held as retrospective, as well as the order dated 22.10.2019, Annexure P-6.

2. Learned counsel would submit that the petitioner was working as Assistant Registrar in the Department of Cooperation and was granted ACP on completion of service of four years on 19.05.2015 with effect from 19.01.2015. As per para 3 of the Instructions dated 01.01.2018, the excess amount could not be recovered, which reads thus:

“3. In such cases, where benefits of ACP scheme have already been given, no recovery shall be made from them and the excess pay drawn more than entitlement, be considered as their Personal Pay which shall be adjusted in their future promotions.”

3. Furthermore, in **Tejinder Singh Viridi vs. State of Punjab and another**, CWP-6125-2019, decided on 05.09.2019, Annexure P-7, the pay of the

petitioner therein, who was also working in the respondent-Department as Additional Registrar, had been reduced, leading to deduction from consequential pensionary benefits, however on the statement made on behalf of the State, the matter was disposed of, which reads thus:

“Learned counsel for the petitioner states that in the present writ petition, the prayer of the petitioner was not to reduce his last drawn pay, which he was drawing in September, 2015, when he retired and also for quashing of the order dated 25.01.2019 (Annexure P-5) by which the pay of the petitioner was re-fixed.

Learned counsel for the respondents states that in the reply, the respondents have stated that neither the recovery will be effected from the petitioner nor his pension will be reduced and this fact has already been communicated to the petitioner. The relevant paragraph of the reply is as under:-

“2. That the impugned order and instructions do not cause any harm because neither any recovery is to be effected from the petitioner nor his pension is to be reduced and intimation to this effect has already been sent to the petitioner through registered post vide letter no.6275 dated 13.6.2019 by the office of the respondent No.2. Thus the writ petition has been rendered infructuous. True translated copy of the letter is annexured as Annexure RT/1 and vernacular as R/T.”

Learned counsel for the petitioner states that keeping in view the stand taken by the respondents in the reply, the petitioner does not want to press this writ petition any further and the same may be disposed of having been not pressed.”

4. Since, learned State counsel was unable to controvert that the Instructions referred to hereinabove contemplate that the excess amount would be adjusted in future promotions or offer any other justification for passing of impugned orders, as also not been able to establish the non-applicability of the stand taken in the aforesaid case, the same are set aside.

5. The present petition stands allowed accordingly.

(AMAN CHAUDHARY)
JUDGE

April 22, 2024
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Whether speaking : Yes/No

Whether reportable : Yes/No