

**CM-4134-CWP-2025 in/and
CWP-897-2019 (O&M) and
other connected cases**

2025:PHHC:044039



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 111+258)**

**(1) CM-4134-CWP-2025 in/and
CWP-897-2019 (O&M)
Date of Decision : 24.03.2025**

Ashok Kumar Arora
...Petitioner

Versus

The High Court of Punjab and Haryana, Chandigarh and others
...Respondents

(2) CWP-14734-2021 (O&M)

Gopal Krishan Khanna
...Petitioner

Versus

High Court of Punjab and Haryana
...Respondent

(3) CWP-14737-2021 (O&M)

Sunil Kumar Chaudhary
...Petitioner

Versus

High Court of Punjab and Haryana
...Respondent

**(4) CM-4130-CWP-2025 in/and
CWP-4218-2023 (O&M)**

Ashok Kumar Arora
...Petitioner

Versus

**CM-4134-CWP-2025 in/and
CWP-897-2019 (O&M) and
other connected cases**

2025:PHHC:044039



The High Court of Punjab and Haryana, Chandigarh

...Respondent

(5)

**CM-4143-CWP-2025 in/and
CWP-18842-2021 (O&M)**

Ashok Kumar Arora

...Petitioner

Versus

The High Court of Punjab and Haryana, Chandigarh

...Respondent

(6)

CWP-20401-2021 (O&M)

Satish Kumar Sharma

...Petitioner

Versus

The High Court of Punjab and Haryana, Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. Tara Dutt, Advocate and
Mr. Raghav Chadha, Advocate for the petitioner(s)
in CWP-14734-2021 and CWP-14737-2021.

Mr. Puneet Gupta, Advocate for the petitioner(s)
in CWP-897-2019, CWP-18842-2021 and CWP-4218-2023.

Mr. Kamal Deep Sehra, Advocate for the petitioner
in CWP-20401-2021.

Mr. Daman Dhir, Advocate for respondent No. 1
in CWP-897-2019.

Mr. Ajaivir Singh, Advocate for the respondent-High Court
in CWP-14734-2021 and CWP-14737-2021.



Mr. B.S. Khehar, Advocate for the respondent
in CWP-4218-2023.

Mr. Avinit Avasthi, Advocate for the respondents
in CWP-18842-2021 and CWP-20401-2021.

Mr. Arvind Moudgil, Senior Standing Counsel, Govt. of India
with Ms. Isha Bhukal, Advocate for respondent No. 5
in CWP-897-2019.

Mr. Barjesh Mittal, Advocate for respondent No. 4
in CWP-897-2019.

Harsimran Singh Sethi J. (Oral)

CM-4134-CWP-2025 in CWP-897-2019, CM-4130-CWP-2025 in CWP-4218-2023 and CM-4143-CWP-2025 in CWP-18842-2021

Present applications have been filed for impleading legal representatives of the petitioner, who unfortunately died on 04.02.2025, during the pendency of the writ petition.

Keeping in view the averments made in the application, which are duly supported by an affidavit, present application is allowed. Legal heirs of the petitioner, the details of whom are given in para 2 of the applications, are allowed to be impleaded in the present writ petitions and the amended memo of parties attached with the present applications are taken on record only for prosecuting the present litigation.

CMs stand allowed.

CWP-897-2019, CWP-14734-2021, CWP-14737-2021, CWP-4218-2023, CWP-18842-2021 and CWP-20401-2021

1. In the present bunch of petitions, the grievance being raised by the petitioners is that grant of particular pay scale which were given to them



while they were in service, has been withdrawn with retrospective effect thereby causing a financial distress and the change in amount of emoluments including the pensionary benefits visit the petitioners with penal consequence though, no recovery of amount is being ordered from them.

2. Replications to the written statement filed on behalf of the respondents in CWP-14734-2021 and CWP-14737-2021 have been filed in Court today. The same are taken on record.

3. Learned senior counsel appearing on behalf of the petitioners submits that even if, any decision was taken by the High Court for withdrawal of a particular pay scale on the basis of certain recommendations made by a Committee constituted for the said purpose, without furnishing the said recommendations to the petitioners, no order causing prejudice could have been passed. Learned senior counsel further submits that the action/decision taken at the back of the petitioners is being implemented upon the petitioners and that too after their retirement, which is to their detriment, hence, the impugned orders which have been passed by the respondents withdrawing the grant of the time scale of ₹51,550/- - ₹63,070/- are liable to be set-aside.

4. Upon notice of motion, the respondents have appeared and have stated that the action which has been taken by the respondents in the impugned orders is based upon the recommendations which have been given by the internal Administrative Committee constituted by the High Court, wherein, certain recommendations were made and those recommendations have been implemented upon all the employees including the petitioners.



5. Learned counsel appearing on behalf of the High Court submit that the said decision of withdrawing the time scale has also been taken on the basis of the representations, which have been received from the similarly situated employees qua the grant of particular pay scale of ₹51,550/- - ₹63,070/-. Learned counsel for the High Court further submit that either the benefit of 20% of the additional pay was to be granted or the benefit of revised pay was to be granted to an employee, both the benefits could not have been granted hence, the benefit of 20% of the additional pay has been granted by withdrawing the pay scale of ₹51,550/- - ₹63,070/-. Learned counsel for the High Court contends that the same has been done keeping in view the recommendations of the Shetty Pay Commission.

6. Learned counsel for the respondents concedes the factum that before passing the impugned orders withdrawing the grant of a particular pay scale, which was being enjoyed by the petitioners while in service, no show cause notice was served upon them.

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

8. The only question which arises for consideration before this Court is whether, any benefit/pay scale which was being enjoyed by an employee upto the date of his/her retirement, can be withdrawn subsequently without issuing any show cause notice. The same proposition goes for even the serving employee as to whether, any pay scale granted to an employee can be withdrawn without even giving the show cause notice.



9. It is a settled principle of law settled by the Hon'ble Supreme Court of India in case titled as ***Chamoli District Co-operative Bank Ltd through its Secretary/Mahaprandhak and another vs. Raghunath Singh Rana and others***, 2016(12) SCC 204 and ***M/s Daffodills Pharmaceuticals Ltd. and another vs. State of U.P. and another*** 2019 (12) JT 283, 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.”

10. 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.”

11. As per the settled principle of law noticed here-in-before, it is clear that no benefit granted to an employee can be withdrawn unilaterally in case, the withdrawal of the same causes prejudice to an employee. In the present case, a particular pay scale granted to the petitioners has been withdrawn so as to re-fix their salary, which ultimately result in the grant of



lesser emoluments/pensionary benefits, which has caused prejudice to the petitioners.

12. Even if, there was a recommendation of a Administrative Committee constituted for the said purpose, before its recommendations were accepted by the High Court, the employees concerned should have been given a notice with regard to the proposed action to be taken in terms of the recommendations of the internal Committee constituted. It is only after considering the reply so filed, a final decision should have been taken as to whether, the pay scale of ₹51,550/- - ₹63,070/-granted, needs to be withdrawn and only 20% of the additional pay is to be granted to the employees concerned, who were working on various posts keeping in view the recommendations of the Shetty Pay Commission.

13. As the said procedure has not been followed, the same amounts to passing an order causing prejudice against an employee and that too without affording any opportunity of hearing to the petitioners qua such proposal. The same cannot be accepted. The impugned orders are accordingly set-aside. The respondents are directed to give a show cause notice to all employees concerned precluding the petitioners along with the recommendations of the Committee, which has given a particular suggestion or direction qua implementation of the recommendation of the Shetty Pay Commission with regard to the grant of 20% additional pay or the grant of revised pay and a fresh order be passed in accordance with law keeping in view the objections which are raised by the employees concerned in their defence, who were getting the particular pay scale of ₹51,550/- - ₹63,070/-,



which pay scale has been withdrawn by restoring the 20% of the additional pay.

14. As the impugned orders are being set-aside only on the basis of the technicality, the fresh decision so taken after hearing the employees concerned, can be implemented with retrospective effect from the date the present impugned orders were passed in case, the decision of the High Court remains the same even after hearing the petitioners.

15. After taking the final decision on the issue, the grant of benefit of the retired petitioners if any admissible, if not already released so far, the same be considered in terms of the order which will be passed henceforth.

16. At this stage, learned counsel for the petitioners submit that in case, the fresh order also goes against the interest of the petitioners, the liberty be given to the petitioners to avail appropriate remedy against the said order. It goes without saying that in case, any order is passed by the High Court after hearing the petitioners and the petitioners are aggrieved against the said order in any manner, they can avail appropriate remedy for the redressal of the grievance on the ground permissible.

17. At this stage, this Court has been informed that all the employees, whose pay scale of ₹51,550/- - ₹63,070/- has been withdrawn so as to be granted 20% of the additional pay, have not approached this Court. It may be noticed that once, a decision has been taken by this Court directing respondents to reconsider the issue as per the fresh decision required to be taken, if any relief is to be given to the petitioners, the same will be implemented qua all the other similarly situated employees as well rather



than forcing everyone to claim the same relief as per the settled principle of law settled by the Division Bench in CWP No. 4382 of 2002 titled as *Satbir Singh Vs. State of Haryana*, decided on 21.03.2002.

18. Writ petitions are disposed of in above terms.
19. Pending miscellaneous application, if any, also stands disposed of.
20. A photocopy of this order be placed on the file of connected cases.

March 24, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No