



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(230)

CWP No. 22824-2017 (O&M)

Date of Decision : 29.07.2025

Tej Mohan Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

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

Mr. Rahul Rampal, Addl. A.G., Punjab.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the order dated 04.05.2017 (Annexures P-12 and P-13) by which, the order dated 15.02.2017 by which conversion of leave without pay into medical leave was granted to the petitioner with regard to the period starting from 03.01.1997 to 09.11.1999 has been withdrawn and the pay of the petitioner has been re-fixed.

2. Learned counsel for the petitioner submits that the order dated 15.02.2017 (Annexure P-7) could not have been withdrawn without giving a show cause notice to the petitioner as the benefit once given can only be withdrawn after seeking the explanation of the employee concerned.

3. Learned counsel for the respondents submits that as the benefit of treating the period from 03.01.1997 to 09.11.1999 as without pay leave



(Medical Leave) was given by the authority not having jurisdiction to grant the said benefit, the same was withdrawn.

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

5. It is a settled principle of law that any order which causes prejudice to an employee especially financially, show cause notice has to be given to the employee concerned before passing such orders. The reliance can be placed upon the judgment of 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, wherein, it has been held 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.”



6. Learned counsel for the respondents has not been able to show that any show cause notice was issued to the petitioner before withdrawing the order dated 15.02.2017 (Annexure P-7) which was passed in favour of the employee concerned.

7. Learned counsel for the respondents has also not been able to dispute the settled principle of law.

8. Keeping in view the above, the orders dated 04.05.2017 (Annexure P-12 and P-13) are set-aside. However, liberty is given to the respondents to pass a fresh order in accordance with law by giving due opportunity of hearing to the petitioner.

9. Present petition is allowed in above terms.

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

July 29, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No