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104 IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-5376-2019
Date of decision: 07.03.2026

K.L. SINGLA ....Petitioner

Versus

NATIONAL INSTITUTE OF TECHNICAL TEACHERS TRAINING AND RESEARCH , CHANDIGARH AND ANOTHER
....Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Petitioner-in-person.

Mr. J.S. Sidhu, Advocate and
Mr. Arvind Seth, Advocate
for the respondents.

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SANDEEP MOUDGIL, J (Oral):

Prayer

1. The jurisdiction of this Court has been invoked under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari, for quashing the impugned order dated 18.01.2010 (Annexure P-14) whereby the higher rate of annual increments @ 4% as against the normal rate of 3% granted to the petitioner by the Director of the respondent institute being the competent authority, in terms of Rule 9 of the Central Civil Service (Revised Pay) Rules, were ordered to be withdrawn and recovered from the petitioner retrospectively from 01.07.2006.

Brief Facts

2. The petitioner joined the respondent-institute as Senior Administrative Officer (Group 'A') and served the institution with an

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unblemished record till his superannuation. The respondent-institute is an autonomous body fully funded by the Government of India and is governed by the Central Civil Services Rules including the CCS (Revised Pay) Rules, 2008.

3. In terms of Rule 9 of the CCS (Revised Pay) Rules, 2008, provision exists for grant of higher rate of annual increment to high performers. The competent authority i.e. the Director of the respondent-institute, vide orders dated 31.10.2008 and 12.06.2009, granted the petitioner the benefit of higher rate of annual increment @ 4% for the relevant years. The said benefit was duly implemented and the petitioner received arrears accordingly.

4. Subsequently, the successor Director issued the impugned order dated 18.01.2010 (Annexure P-14), whereby the said benefit was withdrawn retrospectively from 01.07.2006 and recovery of alleged excess payment was ordered. The impugned action was taken without issuing any notice or affording any opportunity of hearing to the petitioner.

5. Aggrieved against the said action, the petitioner has approached this Court by way of the present writ petition seeking quashing of the impugned order and restoration of the benefit.

Contentions of the Petitioner in person

6. The petitioner, appearing in person, submits that the benefit of higher rate of increment @ 4% was granted by the competent authority strictly in accordance with Rule 9 of the CCS (Revised Pay) Rules, 2008 and the same could not have been withdrawn arbitrarily.

7. It is contended that the successor Director had no jurisdiction to review or reverse the valid orders passed by his predecessor. It is further

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submitted that the impugned order has been passed in complete violation of principles of natural justice, as no show cause notice or opportunity of hearing was afforded to the petitioner.

8. The petitioner argues that the retrospective withdrawal of benefit and recovery is illegal, arbitrary and without jurisdiction, and he is entitled to restoration of the benefit along with all consequential service and retiral benefits.

Contentions of the Respondents

9. Per contra, learned counsel for the respondents submits that the petitioner had earlier filed a writ petition challenging the same order which was withdrawn, and therefore the present petition is not maintainable.

10. It is further contended that no final guidelines had been issued by the Government of India for grant of higher rate of increments and, therefore, the benefit granted to the petitioner was not legally admissible. The respondents also submit that the petitioner himself was involved in processing the proposal for grant of higher increment and cannot take advantage of an alleged wrong fixation. It is further argued that the grant of 4% increment was contrary to prescribed norms and thus rightly withdrawn.

11. I have heard the petitioner appearing in person as well as learned counsel for the respondents and have carefully perused the record.

Analysis

12. It is not disputed that the respondent-institute is governed by the Central Civil Services (Revised Pay) Rules, 2008 and that Rule 9 thereof provides for grant of higher rate of increment to high performers. In

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the present case, the benefit of higher rate of annual increment @ 4% was granted to the petitioner by the competent authority i.e. the Director and the same was duly implemented. The impugned order dated 18.01.2010 seeks to withdraw the said benefit retrospectively and order recovery without affording any opportunity of hearing. Such action cannot be sustained.

13. It is a settled principle of service jurisprudence that any order having civil consequences must comply with the principles of natural justice. Withdrawal of a financial benefit already granted and recovery thereof undoubtedly entails serious civil consequences. Admittedly, no show cause notice or opportunity of hearing was afforded to the petitioner, thereby rendering the impugned action violative of the principle of audi alteram partem.

14. Further, the successor Director has, in effect, exercised a power of review, which is not vested under the statutory framework. In absence of any express provision enabling review, the earlier valid order passed by the competent authority could not have been reversed. Even otherwise, once a benefit has been granted by the competent authority and acted upon, the same cannot be withdrawn arbitrarily, particularly in the absence of any fraud or misrepresentation on the part of the employee.

15. At this stage, reference may be made to the judgment rendered by this Court in the case of ***"Amarjit Kaur, Tailoring Mistress, Government High School v. The State of Punjab in CWP No. 2743-1980 decided on 24.02.1988"*** wherein it was observed as under :

> *"Otherwise also, it is a settled rule of law that once a competent authority has arrived at a certain decision to the benefit of its employees in a bona fide manner and that*

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decision is in effective operation, the successors-in-office cannot reconsider and recall the same unless there is some fresh material on the record justifying a review or reconsideration of the matter. The aforesaid principle laid down in the celebrated judgment of the Privy Council in R.T. Rangachari v. Secretary of State, AIR 1937 Privy Council 27, was followed by this Court in a number of decisions and the one which is nearer home and relates to the grant of pay scales to the employees is M.L. Chopra v. Union of India, 1967 SLR 588. In that case, certain revised pay scale was allowed to the petitioner who was a Railway Guard but later on, on reconsideration of the matter, the Railway authorities withdrew the same. R.S. Narula, J., as his Lordship then was, quashed the order of withdrawal of the pay scale. When another exercise was attempted later on after giving notice etc. and the Railway authorities again decided to withdraw the benefit of higher grade, the Division Bench consisting of D.K. Mahajan and B.S. Dhillon, JJ. upheld the judgment of the learned Single Judge (1967 SLR 588) and placing reliance on the aforesaid Privy Council judgment, reiterated the legal position in the General Manager, Northern Railway, Baroda House, New Delhi and another v. Madan Lal Chopra, Luggage Guard, Northern Railway and others, 1971(1) SLR 629.

The ratio laid down in the aforesaid judgment squarely applies to the facts of the present case., the benefit of higher rate of increment @ 4% was granted to the petitioner by the competent authority under the applicable rules and was duly implemented; however, the successor Director, without any new material on record and without any allegation of fraud or misrepresentation on the part of the petitioner, has sought to withdraw the said benefit retrospectively. Such action is clearly impermissible in law and falls foul of the settled legal position laid down in the aforesaid judgments, thereby rendering the impugned order unsustainable."

16. The contention of the respondents that the benefit was wrongly granted or that guidelines were not finalized does not justify retrospective withdrawal, particularly when the petitioner was not at fault and the benefit was granted by the competent authority under the applicable rules. Apart from the above, the impugned order is liable to be

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set aside on an additional and independent ground. It is borne out from the record that the action taken by the successor Director in issuing the impugned order dated 18.01.2010 was placed before the Board of Governors for approval under Agenda Item No. B-16.4.8 in its meeting held on 13.04.2010; however, the Board of Governors did not approve or ratify the said decision. Rather, the proposal seeking ex post facto approval was not accepted and the agenda item was withdrawn. Once the competent governing body of the institute declined to approve the action of the successor Director, the impugned order lost its legal sanctity and could not have been enforced thereafter. The continuation and implementation of an order which lacks approval of the competent authority is wholly without jurisdiction and unsustainable in law. On this ground alone, the impugned order dated 18.01.2010 deserves to be quashed.

17. It is also pertinent to note that learned counsel for the respondents was unable to justify the impugned action during the course of arguments and, in fact, had no specific instructions or material to demonstrate as to how the benefit of higher rate of increment @ 4%, granted to the petitioner vide orders dated 31.10.2008 (Annexure P-6) and 12.06.2009 (Annexure P-9) under Rule 9 of the CCS (Revised Pay) Rules, 2008, could have been subsequently reduced to 3% and withdrawn retrospectively by way of the impugned order dated 18.01.2010 (Annexure P-14). The absence of any cogent explanation or supporting instructions on behalf of the respondents further reinforces the conclusion that the impugned order is arbitrary, without proper application of mind and unsustainable in law.

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18. Accordingly, the impugned order dated 18.01.2010 cannot be sustained in law and deserves to be set aside.

Conclusion

19. In view of the facts and circumstances of the case, the settled position of law and the reasons recorded hereinabove, the present writ petition is allowed. The impugned order dated 18.01.2010 (Annexure P-14) is hereby quashed and set aside. The respondents are directed to restore the benefit of higher rate of annual increment @ 4% to the petitioner as originally granted by the competent authority and to extend all consequential benefits, including re-fixation of pay and retiral dues. Any recovery effected pursuant to the impugned order shall be refunded to the petitioner. The aforesaid exercise be completed within a period of three months from the date of receipt of a certified copy of this order.

20. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(SANDEEP MOUDGIL)
JUDGE

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1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No

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