
(2014) 07 DEL CK 0119
In the Delhi High Court
Case No : W.P. (C) 2767/2014

Gobinda Ch. Behera

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 16-07-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 07 DEL CK 0119

Hon'ble Judges : Najmi Waziri, J; Kailash Gambhir, J

Bench : Division Bench

Advocate : Prashant Sivarajan, Advocate for the Appellant; Himanshu Bajaj, CGSC, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Kailash Gambhir, J.—The present petition has been filed by the petitioner under Article 226 of the Constitution of India. The petitioner seeks for quashing the signals dated January 4, 2014 and February 6, 2014 and to fix the pay of the petitioner at Rs.9910/- with effect from January 01, 2006.

2. The facts relevant to the case at hand are that the petitioner joined the CRPF in the year 2003 as HC(RO) in the pay scale of Rs.3200-85-4900. After implementation of 6th Central Pay Commission, the pay of the petitioner was revised to Rs.5200-20200/- with Grade Pay of Rs.2000/-. The pay of the petitioner was refixed by the concerned signal Unit and audited by IAP-III at Rs.7510/-, with effect from January 01, 2006. Vide signals dated January 04, 2014 and February 06, 2014, passed by Respondent No. 5 and 6, pay of the petitioner was stepped down to Rs.8630/- from Rs.10,190, stating that the petitioner had erroneously been granted annual increment with effect from 1.7.2006. Aggrieved by the said signals, petitioner preferred a representation dated 8th April 2014 to the Commandant, 2nd Signal Bn., CRPF, Hyderabad, Andhra Pradesh, but to no avail.

3. Addressing arguments on behalf of the petitioner, Mr. Prashant Sivarajan, Advocate, submits that no request was ever made by the petitioner seeking re-fixation of pay nor was there any mis-representation on his part at the time of the fixation of his pay and as such respondents were bound to serve a notice upon the petitioner before re-fixing the pay of the petitioner to his detriment. Even otherwise, once pay had been fixed by the respondent, no recovery could have been made except in accordance with law, which necessitated serving a show cause notice before affecting any recovery. The learned counsel for the petitioner also contended that the present case is squarely covered by the Division Bench judgment of this court in W.P. (C) No. 4295/2011, titled B. D. Dubey & Ors. V. Union of India & Ors. and the similar view has been reiterated in the recent judgment passed by the coordinate Bench of this court in the case of Manoj Pawar V. Union Of India & Ors. W.P. (C) No. 3194/2014, wherein the Court held that if the respondents intended to take any action to re-fix the pay of the petitioner to the detriment of the petitioner, a show cause notice containing the reasons would be issued at first and thereon a decision would be taken after giving an opportunity to the petitioner to be heard.

4. We have heard learned counsel for the petitioner and have also perused the judgment relied upon by the petitioner.

5. To detail our view, we find support from the Judgment of the co-ordinate bench of this court in the case of Manoj Pawar (supra), wherein on similar facts, relying on B.D. Dubey's case (supra) the court considered the following aspects whether the petitioners' pay scale can be downgraded and secondly, if it is held that the pay scale can be downgraded, whether recoveries can be made. Discussing and answering the aforesaid queries, the Court held as under:

10. The answers to the aforesaid questions, in our considered opinion must be in the negative on both counts. The action of the respondents impugned in the present writ petition, in our view, cannot stand scrutiny and smacks of arbitrariness.

11. In the result, we allow the writ petition quashing the impugned signals dated February 06, 2014 with a direction to the respondents that the petitioner would continue to draw pay and allowances in Pay Band-I in the pay scale of Rs.5200-20200/- with Grade Pay of Rs. 2400/- thereby amounting to a sum of Rs. 9910/-, with effect from January 01, 2006.

12. Needless to state that if the respondents intend to take any action to re-fix the pay of the petitioner to the detriment of the petitioner, a show cause notice would be issued containing the reasons therefore and a decision would be taken thereon after giving an opportunity to the petitioner to be heard. No recoveries shall be effected from the petitioner till then.

13. Writ Petition is allowed in the above terms.

6. We find ourselves in complete agreement with the decision of the coordinate

Bench of this court in Manoj Pawar (supra) and deems it fit to allow the present writ petition in the above terms, quashing the impugned signals dated 4.1.2014 and 6.2.2014 with a direction to the respondents that the petitioner would continue to draw pay and allowances in the basic pay of Rs.9910/- with effect from January 01, 2006.

7. Thus, in view of the above, nothing survives to be decided, hence the petition stands disposed off in terms of the judgment dated 27.05.2014 in the case of Manoj Pawar V. Union of India & Ors., W.P. (C) 3194 of 2014.