

(2010) 12 SHI CK 0414
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 8653 of 2008

Hari Saran

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 06-12-2010

Acts Referred:

Citation : (2010) 12 SHI CK 0414

Hon'ble Judges : Kuldeep Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Kuldeep Singh, J.—The Petitioner has prayed that pay fixation order dated 25.7.2002 Annexure A-2 may be quashed and set aside qua the Petitioner, the Respondents may be directed not to reduce the basic pay of the Petitioner and give him all consequential benefits of the Scheme. The case of the Petitioner is that he was drawing basic pay of Rs. 2625/-+ Rs. 25/- as on 1.7.1995 and consequent upon revision of pay scales w.e.f. 1.1.1996, vide H.P. Govt. notification dated 20.1.1998, the pay of the Petitioner was fixed at Rs. 8375/- w.e.f. 1.1.1996 with his next date of increment as 1.7.1996 raising his pay from Rs. 8375/- to Rs. 8650/-by giving him annual increment.

2. The Govt. of H.P. had notified Assured Career Progression Scheme in the year 1998. This Scheme envisaged grant of next higher Whether the reporters of the local papers may be allowed to see the Judgment? pay scale/proficiency step up in the hierarchy of pay scale after rendering regular service of 8/16/24/32 years to those JBT/Head Teachers/Centre Head Teachers who had not been promoted to the next higher level due to non-availability of vacancy or non existence of promotion level in his cadre. The Respondents had issued order fixing the pay of the Petitioner vide office order dated 25.7.2002, Annexure A-2, under the Scheme. It has been submitted that a perusal of the pay fixed by the Respondents would reveal that the basic pay of the Petitioner had been reduced from Rs. 8375/- to Rs. 8100/-per month w.e.f. 1.1.1996 with the next date of

increment 1.8.1996. The Petitioner has also submitted that as per impugned fixation the Respondents are now going to make recovery from his salary for the alleged over payment.

3. The petition has been contested by Respondents by filing reply. The Respondents have not denied the case of the Petitioner, specifically projected by him in para 6(v) of the petition wherein he has stated that the pay of the Petitioner fixed by the Respondents has been reduced from Rs. 8375/- to Rs. 8100/-per month w.e.f. 1.1.1996, nor the Respondents have denied para 6(viii) of the petition wherein the Petitioner has stated that the recovery will be made by the Respondents on account of alleged over payment. The Respondents in para 6(viii) of the reply have pleaded that detail submissions have already been made in sub- para 4 but in sub- para 6(iv) nothing has been stated by Respondents regarding the recovery part. The Respondents have however, defended their action of fixing the pay of the Petitioner.

4. The Petitioner has taken a positive stand in the petition that his pay on account of fixation is going to be reduced from Rs. 8375/- to ...3...

Rs. 8100/-per month w.e.f. 1.1.1996. The reduction of pay of the Petitioner will amount to civil consequence, but the Petitioner has not been heard by the Respondents before reducing his pay. It is not the case of the Respondents that earlier fixation was obtained by the Petitioner by misrepresentation or fraud. The Petitioner has nothing to do with the earlier pay fixation. It was fixed by Respondents. There is nothing on record to show that Respondents before reducing the pay of the Petitioner heard him personally. As such, Annexure A-2 so far the Petitioner is concerned is not sustainable.

5. No other point was urged.

6. In view of above discussion, the petition is allowed. Annexure A-2 so far it relates to the Petitioner is quashed. However, liberty is given to the Respondents to pass appropriate order regarding pay fixation of Petitioner in accordance with law after hearing him. The pending applications, if any stand disposed of.