

**(2010) 05 GAU CK 0055**  
**In the Gauhati High Court**  
**Case No : Writ Petition (C) No. 6747 of 2005**

Ramen Chandra Boro

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision :** 26-05-2010

**Acts Referred:**

**Citation :** (2010) 6 GLR 132

**Hon'ble Judges :** P.K. Musahary, J

**Bench :** Single Bench

**Advocate :** M. Chanda, S.K. Ghose, S. Choudhury and S. Dutta, for the Appellant; U. Chakraborty, for the Respondent

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## Judgement

P.K. Musahary, J.—Heard Mr. M. Chanda, learned Counsel for the Petitioner. Also heard Mrs. U. Chakraborty, learned standing counsel appearing for Respondents-NF Railway.

2. In this writ petition, the Petitioner has challenged the office order No. 2/TS/NBQ/24/Pt.-X dated 8.2.2005 whereby the scale of pay of the Petitioner was reduced from Rs. 4500-7000 p.m. to Rs. 4000-6000 p.m.

3. I have perused the Impugned order dated 8.2.2005. Apparently, this order was passed on the basis of the audit Inspection report where some discrepancies were noted, in details, in respect of Petitioner's pay, SCA, etc. The aforesaid audit report has been appended to the counter affidavit filed by Respondents N.F. Railway (Annexure III). The Petitioner has been affected by the aforesaid Impugned order dated 8.2.2005 inasmuch his pay has been reduced, as stated above.

4. From the pleadings of the Respondent authorities, it is found that the copy of the aforesaid audit report on the basis of which the impugned order dated 5.2.2005 was passed, was neither furnished to the Petitioner nor any notice was served on him before the said impugned order was passed.

5. Mr. Chanda, learned Counsel for the Petitioner, submits that no opportunity was given to the writ Petitioner to present his case before the authorities concerned. The learned Counsel also submits that there is a complete violation of principles of natural justice in passing the impugned order dated 8.2.2005.

6. Mr. Chakraborty, learned standing counsel, submits that after the impugned order dated 8.2.2005 was passed, the present Petitioner made a representation before the Principal/STC/NBQ, on 10.2.2005, requesting the concerned authorities not to reduce his salary. In response to the said representation, the authority, abovementioned, sent a letter/ reply dated 16.3.2005 to the Petitioner. However, being not satisfied with the said letter/reply dated 16.3.2005, the Petitioner has approached this Court challenging the impugned order dated 8.2.2005.

7. On a careful examination of the materials placed before this Court, it is found that there is nothing to show that after the audit report dated 19.1.2005 was tabled, the authorities concerned ever informed the Petitioner or supplied a copy of the said audit report to him. There is also nothing on record to show from the documents appended by the Respondent authorities in its counter affidavit that any notice was served upon the Petitioner along with the audit report. The letter/ reply dated 16.3.2005 was issued by the Principal, STC/BNQ to the Petitioner only after the impugned order dated 8.2.2005 was passed and communicated to the Petitioner. It will, therefore, not be proper to say that the Petitioner was given any opportunity of hearing before the impugned order dated 8.2.2005 was passed by the authorities concerned.

8. In this context, I have gone through the judgment rendered by the Apex Court in Bhagwan Shukla Vs. Union of India and others, wherein it has been held that, amongst others, prior opportunity ought to be provided to an employee before any order is passed reducing the pay scale and if such an opportunity is not provided, it would amount to flagrant violation of the principles of natural justice inasmuch as the employee has been made to suffer financial loss without being heard. It is the settled law, that fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the employee concerned to notice and giving a hearing in the matter. In my considered opinion, the above principle of law would govern the present case.

9. In view of the above, I hold that the impugned order dated 8.2.2005 passed by the Respondent authorities deserves to be set aside and quashed. Accordingly, the same is set aside and quashed.

10. The writ petition stands disposed of accordingly. The earlier interim order dated 3.5.2006 passed by this Court in MC No. 4137/2005 [WP(C) No. 6747/2005] shall stand merged with this order. There shall be no order as to costs.

11. However, if the authorities concerned, if so advised, still want to reduce the

pay scale of the present writ Petitioner as per the audit report, in question, they may proceed with the same only after giving due notice and opportunity to the Petitioner in accordance with the existing rules and relevant procedure.