



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

103+208

CWP-20817-2019 (O&M)

Date of Decision: 11.08.2025

Union of India and others

....Petitioners

Versus

Central Administrative Tribunal, Chandigarh and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Arvind Moudgil, Advocate (through V.C) and
Ms. Isha Bhukal, Advocate
for the petitioners.

Mr. Vivek Aggarwal, Advocate
for respondent No.2.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the order dated 06.02.2019 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh Bench, by which, the claim of respondent No.2 that his pay has been wrongly re-fixed by the petitioners and recovery of the excess amount is being done contrary to the settled principle of law settled as laid down by the Hon'ble Supreme Court of India in ***State of Punjab and others vs. Rafiq Masih, AIR 2015 SC 696***, has been allowed and the re-fixation of the salary of respondent No.2 i.e. a Class-IV employee, has been held to be bad.



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2. On being asked as to whether, before re-fixation of salary upon withdrawal of benefit of 3rd ACP granted to respondent No.2 in the year 2014, any opportunity of hearing was given to the workmen or not, learned counsel for the petitioners concedes the factum that no opportunity of hearing was given to respondent No.2 before withdrawal of benefit of 3rd ACP. Learned counsel submits that as an audit objection was raised, the benefit of 3rd ACP granted to respondent No.2 was withdrawn and consequent recovery was ordered.

3. As per settled principle of law, no financial benefit given to an employee can be withdrawn without giving an opportunity of hearing. In the present case, the benefit of the 3rd ACP which was granted to the employee concerned, has not only been withdrawn without giving any opportunity of hearing and rather, the said employee has also been burdened with the recovery of the alleged excess amount paid to him.

4. 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/Mahaprاندhak 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



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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



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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.”

5. Further, it may be noticed that not only against respondent No.2 but against other employees also, the same action was taken upon the audit report and the Tribunal has set aside the similar orders against another person, who was working as a Mason. The challenge to one such order passed by the Tribunal was rejected by the Division Bench of this Court in CWP-13924-2018 decided on 23.08.2018 titled ***Union of India and others vs. Central Administrative Tribunal and others***, wherein the Division Bench of this Court clearly held that no revision of the salary fixed can be allowed especially when, the benefit of 3rd ACP was given after expiry of 10 years after the grant of benefit of 2nd ACP which is the required norm.

6. In the present case also, it is a conceded fact that the benefit of 3rd ACP which was sought to be withdrawn, has been given after a period of 10



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years of grant of 2nd ACP. Keeping in view the totality of facts and circumstances of the present case as coupled with the fact that similar order challenged by the Union of India has been rejected by the Division Bench which passing order in CWP-13924-2018, no ground is made out for any interference by this Court.

7. The present writ petition is dismissed.
8. Pending applications, if any, also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

August 11, 2025

Varinder

Whether speaking/reasoned : Yes

Whether reportable : No