

Mr. Rakesh Sobti, Advocate
For the petitioner in CWP No.10095 of 2021.

Mr. Amrik Singh, Advocate
for the petitioner in CWP No.5861 of 2021.

Ms. Akshita Chauhan, DAG Punjab.

Mr. Manak Singh Longia, Advocate for
Mr. APS Sekhon, Advocate
For respondent No.4 in CWP o.5861 of 2021.

HARSIMRAN SINGH SETHI, J. (Oral)

1. Present bunch of four writ petitions involve common question of law in the context of common set of facts and thus they are being decided by a common order.
2. In the present bunch of petitions, the only grievance raised by the petitioner(s) is that without giving any opportunity of hearing to the petitioner(s), the benefit of revised pay scale has been withdrawn and consequent recovery has been ordered, which is arbitrary and illegal.
3. Learned counsel for the petitioner(s) submits that in case, the benefit if any, was to be withdrawn, the said proposal should have been given to the employees concerned and it is only after seeking their response, the benefit granted should have been withdrawn by recording due reasons, which fact is missing in the present case and the withdrawal of benefit is contrary to the settled principle of law settled by the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/Mahaprandhak 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.

4. Learned counsel for the respondents concedes the factum that the revision of the pay scale of the petitioner(s) to their detriment was done without giving any show cause notice to the petitioner(s).

5. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

6. It is a settled principle of law settled by 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/Mahaprandhak 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 that where any order passed by the 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 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.”

7. A bare perusal of the above stated settled principle of law in the issue makes it clear that the impugned orders of revising the pay of the petitioner(s) have been passed in violation of the settled principle of law in ***Chamoli District Co-operative Bank Ltd through its Secretary/Mahaprandhak 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.

8. At this stage, learned counsel for the petitioner(s) submits that though the impugned orders were passed but as the same were stayed, the petitioners are continuing to get the unrevised salary as of now.

9. Learned counsel for the respondents submits that a liberty be given to the respondents to pass a fresh order in accordance with the law after giving due opportunity of hearing to the petitioners and in case, after the fresh order, the petitioners are found entitled for the grant of benefit, they will be allowed to continue with the benefit of salary which they are drawing now but in case, they are not found entitled for the benefit, the same will be withdrawn by giving due reasons for the same.

10. Learned counsel for the respondents further submits that appropriate speaking order will be passed within a period of 3 months from the date of receipt of copy of this order and till then, the impugned orders will not be given effect to in any manner.

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11. Learned counsel for the petitioners submits that keeping in view the statement of learned counsel for the respondents, the present bunch of petitions may kindly disposed of as having been not pressed any further.

12. Ordered accordingly.

13. Pending application, if any, shall stands disposed of.

14. Photocopy of this order be placed on the files of other connected cases.

26-03-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO