



2026:AHC:20807

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 1267 of 2026

Devendra Kumar

.....Petitioner(s)

Versus

The State Of Up And Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Irfan Ahmad Malik
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Irfan Ahmad Malik, learned counsel for the writ petitioner and Sri Rahul Malviya, learned Standing Counsel for the State.

2. Sri Rahul Malviya, learned Standing Counsel has made a statement at bar that he is possessed with the instructions and he is in a position to argue the matter and he does not propose to file any affidavit, the writ petition be decided on the basis of the documents available on record. With the consent of the parties, the writ petition is being decided at the fresh stage.

3. The case of the writ petitioner is that he was selected as Police Constable in the year 1984 and he promoted as Head Constable and he superannuated on 31.07.2022, however, now by virtue of the order dated 09.11.2022 passed by second respondent, Superintendent of Police, Hapur, District Hapur now the salary has been reduced from Rs. 60,400/- to 56,900/-. Submission of the learned counsel for the writ petitioner is that he has not committed fraud, concealment or misrepresentation, the writ petitioner was not put to notice. Reliance has been placed upon the judgment of ***State of Punjab Vs. Rafiq Masih (White Washer)*, 2015 (4) SCC 334** and ***Thomas Daniel Vs. State of Kerala and others*, (2022) LiveLaw (SC) 438**.

4. Learned Standing Counsel has submitted that it is always open for the employer to correct the errors, however, according to him, it is not forthcoming that the writ petitioner was put to notice.

5. I have heard the submission so made across the bar and perused the record.

6. Apparently, the allegation is with regard to extension of certain benefits which the writ petitioner was not entitled. In ***Bhagwan Shukla Vs. Union of India and others*** reported in (1994) 6 SCC 154 wherein the following was observed.-

"3. We have heard learned counsel for the parties. That the petitioner's basic pay had been fixed since 1970 at Rs. 190 p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs. 181 p.m. from Rs. 190 pan. in 1991 retrospectively w.e.f. 18.12.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not, even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There, has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. 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 concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25.7.1991. which was impugned before the Tribunal could not certainly be sustained and the Central Administrative Tribunal fell in error in dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the order of the Central Administrative Tribunal dated 17.9.1993 as well as the order (memorandum) impugned before the Tribunal dated 25.7.1991 reducing the basic pay of the appellant From Rs. 190 to Rs. 181 w.e.f. 18.12.1970."

7. Since it is not forthcoming from the order impugned that the writ petitioner was put to notice that the order cannot be sustained.

8. Looking into the overall fact situation and the stand taken by the respective parties, this Court without delving any further is disposing of the writ petition in the following terms.-

(a) Order dated 09.11.2022 passed by Superintendent of Police, Hapur, second respondent is set aside;

(b) matter stands remitted back to pass a fresh order after hearing the writ petitioner.

9. With the aforesaid observations, the writ petition stands **disposed of**.

January 30, 2026

N.S.Rathour

(Vikas Budhwar,J.)