



2026:AHC:27078

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 16446 of 2024

Kali Ram

.....Petitioner(s)

Versus

State Of Up And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Sunil Kumar Mishra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Counter affidavit filed today is taken on record.
2. Heard Sri Sunil Kumar Mishra, learned counsel for the petitioner and Sri B.K. Srivastava, learned Standing Counsel, who appears for State-respondents.
3. The case of the writ petitioner is that he was appointed on 22.06.1994 as Lekpal and he was regularised on 29.03.1996. On 03.08.2013, the salary of the writ petitioner was fixed on grade pay of Rs. 2400/-. It is also the case of the writ petitioner that the writ petitioner was accorded the grade pay of Rs. 2800/-, however, the order impugned has been passed on 06.09.2024 whereby it has been reduced to grade pay of Rs. 2400/-.
4. Questioning the same, the writ petitioner has been filed the present writ petition.
5. This Court entertained the writ petition on 18.12.2024 while passing the following orders:

"1. Heard learned counsel for petitioner and learned Standing Counsel for State-respondents.

2. Learned counsel for petitioner submitted that petitioner was appointed on the post of Lekhpal on 22.06.1994. It is next submitted that grade pay of Rs. 2800/- has been fixed w.e.f. 01.07.2010 and petitioner was receiving salary as per that grade pay. It is next submitted that vide impugned order dated 06.09.2024, grade pay of petitioner has been reduced to Rs. 2400/-. It has also been stated in the impugned order to recover the excess payment from petitioner. Lastly, it is submitted that in light of para 12(iii) of judgement of Apex Court in the matter of State of Punjab and others Vs. Rafiq

Masih: 2015 (4) SCC 334, no recovery can be made from Class-III & Class-IV employees when the excess payment has been made for a period in excess of five years, before the order of recovery is issued. Therefore, impugned order dated 06.09.2024 is bad and liable to be set aside.

3. Matter requires consideration.

4. Learned Standing Counsel prays for and is granted four weeks time to file counter affidavit. Rejoinder affidavit, if any, may be filed within one week thereafter.

5. List this case on 13.02.2025.

6. Until further order of this order, impugned recovery order dated 06.09.2024 shall remain stayed."

6. Learned counsel for the writ petitioner submits that the order impugned cannot be sustained for the simple reason that the same is unilateral behind the back of the writ petitioner and the writ petitioner was not put to notice. The writ petitioner is retired on March, 2026.

7. Shri B.K. Srivastava submits that though once there happens to be an error kept in while determining the salary then it is always open for the employer to alter the same and to correct it as the same is to be done after putting to the notice to the writ petitioner. He submits that from the order impugned, it is not forthcoming whether the writ petitioner put to notice. However, he submits that the order be set aside and the matter be remitted back to authority to pass fresh orders.

8. I have heard learned counsel for the parties and gone through the records carefully.

9. The facts are not in issue. Apparently, the grievance is that the entire exercise undertaken by the respondents while reducing the salary while altering it is a unilateral action.

10. In the opinion of the Court, any action which is undertaken exparte that to the determent cannot be sustained. The Hon'ble Apex Court in **Bhagwan Shukla vs. Union of India and others; (1994) 6 SCC 154** had observed as under:

"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."

11. Since it is not forthcoming for the order impugned that the writ petitioner was put to notice thus this Court has no option but to set aside the order.

12. Accordingly, the writ petition is being decided in the following manner:

(a) The order dated 06.09.2024 passed by respondent no. 4, Settlement Officer Consolidation, Saharanur is set aside.

(b) The matter be remitted back to authority to pass fresh orders within a period of two months from the date of presentation of the certified copy of the order..

13. Accordingly, the writ petition stands **disposed of**.

February 6, 2026

Ashu

(Vikas Budhwar,J.)