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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 3251/2023

RATAN LAL AND ORS .....Petitioners

Through: Mr. Anshuman Mehrotra, Mr. Arjun Panwar, Mr. Amrit Koul, Mr. Prahil Sharma and Ms. Muskaan Dutta, Advs.

versus

UNION OF INDIA AND ORS .....Respondents

Through: Mr. Neeraj SPC with Mr. Soumyadip Chakraborty, Adv. and Mr. Ajay Pal (CRPF).

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 16.09.2025

C. HARI SHANKAR, J.

1. There are nine petitioners in this writ petition. They were working as Head Constables and Assistant Sub-Inspectors in the Central Reserve Police Force. By Office Orders dated 7 February 2020 and 20 September 2021, their pay was upwardly re-fixed at par with their batchmates.

2. Two years thereafter, however, by Office Order dated 30 July 2022, their pay was downwardly re-fixed retrospectively with effect from 1 January 1996.

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3. Admittedly, the aforesaid Office Order has been issued without any prior show cause notice to the petitioners.

4. The Supreme Court has clearly held, in its decision in ***Bhagwan Shukla v UOI***[1], that pay cannot be re-fixed to the prejudice of an officer or employee without complying with the principles of natural justice which would require issuance of prior show cause notice and an opportunity to respond.

5. We have dealt with a similar controversy in our judgment in ***National Institute of Rural Development and Panchayati Raj v K.N. Sati***[2]. Paras 25.1 to 25.6 of the said decision deal with the principle that downward re-fixation of the pay of an employee without a show cause notice is not permissible. We may reproduce, to advantage, the said paragraphs, thus:

> "25.1 Besides, the order dated 27 October 2020 is also in the teeth of the judgment of the Supreme Court in ***Bhagwan Shukla v UOI***. The Supreme Court has clearly held, in that case, that an order of downward fixation of pay visits the employee with civil consequences and cannot be passed without granting the employee an opportunity to show cause. The decision in ***Bhagwan Shukla*** is brief, and may be reproduced as under:
>
> > "1. Leave granted.
> >
> > 2. The controversy in this appeal lies in a very narrow compass. The appellant who had joined the Railways as a Trains Clerk w.e.f. 18-12-1955 was promoted as Guard, Grade-C w.e.f. 18-12-1970 by an order dated 27-10-1970. The basic pay of the appellant was fixed at Rs 190 p.m. w.e.f. 18-12-1970 in a running pay scale. By an order dated

[1] **(1994) 6 SCC 154**
[2] **2025 SCC OnLine Del 1179**

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25-7-1991, the pay scale of the appellant was sought to be refixed and during the refixation his basic pay was reduced to Rs 181 p.m. from Rs 190 p.m. w.e.f. 18-12-1970. The appellant questioned the order reducing his basic pay with retrospective effect from 18-12-1970 before the Central Administrative Tribunal, Patna Bench. *The justification furnished by the respondents for reducing the basic pay was that the same had been 'wrongly' fixed initially and that the position had continued due to 'administrative lapses' for about twenty years, when it was decided to rectify the mistake.* The petition filed by the appellant was dismissed by the Tribunal on 17-9-1993.

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 p.m. 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 (sic employee) 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.

4. No costs."

25.2 To the same effect is the mandate of the DOPT OM dated 6 February 2014 *supra*, on which Ms Lakra places reliance. Para ii thereof, extracted in para 16 *supra*, clearly required authorities, who decide to rectify an incorrect order, to (i) issue, *a priori*, a

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show cause notice to the employee, informing him of the decision to rectify the error, as well as the intention to recover excess payments, (ii) convey, through the show cause notice, the reasons for recovery, so that the employee concerned could represent thereagainst, and (iii) pass speaking orders after consideration of the representations made by the employees. The respondents cannot act contrary to this mandate.

25.3 Ms Lakra's contention that the requirements of the law stand satisfied by the later consideration of the respondents' case by the Committee, and by the order which the Committee took with respect thereto, cuts no ice. From ***Taylor v Taylor***[3], through ***Nazir Ahmed v King Emperor***[4], through several decisions of the Supreme Court till as late as ***UOI v Mahendra Singh***[5], the law is that, when the statute – or, in this case, the DOPT OM dated 6 February 2014 and the law as declared by the Supreme Court in, *inter alia*, ***Bhagwan Shukla*** – requires a particular act to be done in a particular manner, that act has to be done in that manner or not at all, all other modes of doing the act being necessarily forbidden. Ergo, when ***Bhagwan Shukla***, as well as the DOPT OM dated 6 February 2014, as well as the requirement of compliance with the most elementary principles of natural justice and fair play, require a decision to refix the pay granted to an employee downwards, even if it is by way of correction of an earlier error, to be preceded by a show cause notice to the employee, setting out the reasons for the proposed refixation, an opportunity to represent thereagainst, and an opportunity to the employee to be heard, and the passing of a speaking order on the employee's representation, that, and nothing less, would suffice. A post-decisional hearing is, therefore, no panacea for breach of the law.

25.4 In ***K.I. Shephard v UOI***[6], the Supreme Court exposited the principle thus:

> "12. Mullan in Fairness: The New Natural Justice has stated:
>
> "Natural justice co-exists with, or reflected, a wider principle of fairness in decision-making and that all judicial and administrative decision-making and that all judicial and administrative decision-makers had a duty to act fairly."

[3] **(1875) 1 Ch D 426**
[4] **AIR 1936 PC 253**
[5] **(2022) 6 SCR 1001**
[6] **(1987) 4 SCC 431**

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In the case of ***State of Orissa v Dr (Ms) Binapani Dei***[7] this Court observed:

> "It is true that the order is administrative in character, but *even an administrative order which involves civil consequences* as already stated, must be made consistently with the rules of natural justice after informing the first respondent of the case of the State, the evidence in support thereof *and after giving an opportunity to the first respondent of being heard and meeting or explaining the evidence.* No such steps were admittedly taken: the High Court was, in our judgment, right in setting aside the order of the State."

In ***A.K. Kraipak v UOI***[8] a Constitution Bench quoted with approval the observations of Lord Parker in ***Re: (H) K (an infant)***[9]. Hegde, J. speaking for the Court stated:

> "Very soon thereafter a third rule was envisaged and that is that quasi-judicial enquiries must be held in good faith, without bias and not arbitrarily or unreasonably. But in the course of years many more subsidiary rules came to be added to the rules of natural justice. Till very recently it was the opinion of the courts that unless the authority concerned was required by the law under which it functioned to act judicially there was no room for the application of the rules of natural justice. The validity of that limitation is now questioned. If the purpose of the rules of natural justice is to prevent miscarriage of justice one fails to see why those rules should be made inapplicable to administrative enquiries. Oftentimes it is not easy to draw the line that demarcates administrative enquiries from quasi-judicial enquiries. Enquiries which were considered administrative at one time are now being considered as quasi-judicial in character. Arriving at a just decision is the aim of both quasi-judicial enquiries as well as administrative enquiries. An unjust decision in an administrative enquiry may have more far-reaching effect than a decision in a quasi-judicial enquiry."

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[7] **AIR 1967 SC 1269**
[8] **(1969) 2 SCC 262**
[9] **(1969) 3 SCC 84**

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These observations in ***A.K. Kraipak*** were followed by another Constitution Bench of this Court in ***Chandra Bhavan Boarding and Lodging, Bangalore v State of Mysore***[10]. In ***Swadeshi Cotton Mills v UOI***[11] a three Judge Bench of this Court examined this aspect of natural justice. Sarkaria, J. who spoke for the court, stated:

> "During the last two decades, the concept of natural justice has made great strides in the realm of administrative law. Before the epoch-making decision of the House of Lords in ***Ridge v Baldwin***[12] it was generally thought that the rules of natural justice apply only to judicial or quasi-judicial proceedings; and for the purpose, whenever a breach of the rule of natural justice was alleged, courts in England used to ascertain whether the impugned action was taken by the statutory authority or tribunal in the exercise of its administrative or quasi-judicial power. In India also, this was the position before the decision dated February 7, 1967, of this Court in ***Dr Binapani Dei***; wherein it was held that even an administrative order or decision in matters involving civil consequences, has to be made consistently with the rules of natural justice. This supposed distinction between quasi-judicial and administrative decisions, which was perceptibly mitigated in ***Binapani Dei*** was further rubbed out to a vanishing point in ***A.K. Kraipak v Union of India*** …"

On the basis of these authorities it must be held that even when a State agency acts administratively, rules of natural justice would apply. *As stated, natural justice generally requires that persons liable to be directly affected by proposed administrative acts, decisions or proceedings be given adequate notice of what is proposed so that they may be in a position (a) to make representations on their own behalf; (b) or to appear at a hearing or enquiry (if one is held); and (c) effectively to prepare their own case and to answer the case (if any) they have to meet.*

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15. Fair play is a part of the public policy and is a guarantee for justice to citizens. In our system of Rule of

[10] **(1969) 3 SCC 84**
[11] **(1981) 1 SCC 664**
[12] **(1963) 2 All ER 66 (HL)**

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> Law every social agency conferred with power is required to act fairly so that social action would be just and there would be furtherance of the well-being of citizens. The rules of natural justice have developed with the growth of civilisation and the content thereof is often considered as a proper measure of the level of civilisation and Rule of Law prevailing in the community. Man within the social frame has struggled for centuries to bring into the community the concept of fairness and it has taken scores of years for the rules of natural justice to conceptually enter into the field of social activities. We do not think in the facts of the case there is any justification to hold that rules of natural justice have been ousted by necessary implication on account of the time frame. On the other hand we are of the view that the time limited by statute provides scope for an opportunity to be extended to the intended excluded employees before the scheme is finalised so that a hearing commensurate to the situation is afforded before a section of the employees is thrown out of employment."

> 25.5 The law does permit post-decisional hearings in exceptional cases, where a pre-decisional hearing cannot be granted. However, that is a course of action ordinarily to be reserved for emergent situations, and can certainly not be an alternative in the present case, especially as the revisitation of the pay fixation of the petitioners was being effected eight years after the pay had been fixed, and seven years after the MORD had written, in this connection, to the CAPARD in May 2013. Besides, as already noted, where the law requires a show cause notice, an opportunity to represent, and a reasoned order to precede the downward refixation of pay, that, and that alone, would suffice.

> 25.6 Inasmuch as no show-cause notice had been issued to the respondents prior to the passing of the downward re-fixation office order dated 27 October 2020, the office order stands vitiated on that ground as well."

6. Mr. Soumyadip Chakraborty, learned Counsel for the respondents, who appears on behalf of Mr. Neeraj, learned SPC submits that a show cause notice stands issued to the petitioner after the passing of the impugned order.

7. We have also observed in our decision in ***National Institute of***

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Rural Development that a post-decisional hearing is no substitute for a pre-decisional show cause notice.

8. In that view of the matter, the impugned order dated 30 July 2022 stands quashed and set aside. The petitioner would be entitled to consequential benefits, which would include restoration of the orders dated 7 February 2020 and 20 September 2021, whereby the petitioners' pay was upwardly re-fixed, as well as consequential arrears, if any.

9. Let the requisite payments be made to the petitioners within a period of four weeks from today.

10. The writ petition stands allowed in the aforesaid terms.

C.HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

SEPTEMBER 16, 2025/*gunn*

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