

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

Civil Writ Petition No.19629 of 2015

Date of decision: 16.9.2015

Mangat Ram

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Ved Parkash Sehtia, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

The petitioner while working in the Police Department applied for a post in the Health Department for appointment through proper channel and was successful in obtaining the appointment in the Health Department whereafter he left the Police Department but would continue to retain lien in the Police Department till he is confirmed in the transferred department. When he left the Police Department, he was compelled to deposit two months salary which demand was contrary to rules. Precedents are cited in this petition by the learned counsel for the petitioner that in other cases on appointment through proper channel from Police Department to other Departments, the employees were not called upon to deposit two months salary and in case the department has, the amounts were refunded but in the

case of the petitioner the Additional Director General of Police, Punjab Armed Police, Jalandhar has rejected the case of the petitioner for refund of money vide order dated 11th August, 2015 while at the same time admitting that if the employee has joined a new post after applying through proper channel, he has neither to resign nor has he to deposit any amount in the parent department and the Police Department is bound to relieve the employee to enable him join another department under the same Government.

Having reached this conclusion, the relief has been denied on the specious ground that there is no provision to refund the amount deposited in the Treasury as per rules. This line of reasoning to say the least is shockingly absurd. If rule does not require deposit of salary of two months, as in the case of the petitioner, then the amount has to be refunded forthwith even if it is lying in the treasury since it belongs to the employee and it cannot be that there is no procedure laid down for returning money due to the rightful owner from the treasury. This is a priori and a right on first principles.

Notice of motion.

On the asking of this Court, Mr.Inqulab Nagpal, Assistant Advocate General, Punjab accepts notice on behalf of the respondents and waives service on them.

Since the impugned order is *ex facie* illegal, the stand of the State would not be required by presentation of written statement which may only waste further time of this Court on a question which is as clear as the clear blue sky.

Having heard the learned counsel, I have no hesitation in

quashing the impugned part of the order dated 11th August, 2015. Since money belonging to the petitioner has been illegally withheld, a direction is issued to the respondents and to the Treasury concerned to refund two months salary representing an amount of ₹ 64,146/- within 7 days of receipt of a certified copy of this order after completing the required formalities in which task the petitioner will cooperate but must be informed in advance by the Department/Treasury by fixing date and time. It is further directed that interest @ 12% per annum will be paid to the petitioner by the Treasury on the withheld amount from the date of deposit with the Police Department till realization. Both principal amount together with interest be paid within the time fixed.

With these directions, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

September 16, 2015
Paritosh Kumar