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IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH

CWP No. 23588 of 2014

Date of Decision:.03.09.2015

Amar Singh

...Petitioner

Versus

State of Haryana & ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ashish Rawal, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.
for the respondent-State.

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

DEEPAK SIBAL, J. (Oral)

The petitioner who was working as an Excise and Taxation Officer (ETO) with the respondents applied for and was sanctioned an advance amounting to Rs.1,25,000/- for purchase of a car. As per the terms of the sanctioning order dated 17.05.1996 (Annexure P-1), the advance was to be recovered, along with the chargeable rate of interest, from the salary of the petitioner in 100 equal installments.

The above said advance was released in June 1996 and thereafter the installments, as per the sanctioning order, were recovered by the respondents from the petitioner's salary.

The petitioner was to superannuate on 22.02.2014 and while his no dues certificate was being processed, it came to light that the respondents had failed to deduct certain amount from the salary of the petitioner payable towards interest on the advance taken by him. This amount along with penal interest of Rs. 29,558/- was then demanded from the petitioner which he paid under protest so that the no due certificate would be issued and he be released his retrial benefits in time.

Through the present petition the petitioner challenges the action of the respondents to demand penal interest from him on the ground that it was responsibility of the respondents to recover the advance taken by him from his salary which they failed to do so. It is further submitted that the recovery of the advance taken by the petitioner was to be from his salary in which he had no role to play and thus the petitioner could not be charged penal interest for no fault on his part.

Counsel for the State of Haryana very fairly admits to the factual position as portrayed above by counsel for the petitioner.

In view of the above, I find that the respondents failed in their duty to make deductions from the salary of the petitioner towards the amount due from him. It is not disputed that the petitioner has paid the principal amount along with agreed rate of interest thereupon. The only dispute pertains to the demand of penal interest recovered from him. In the facts of the case in hand, for the negligence on the part of the respondents for having not deducted the amount due from the petitioner's salary no penal interest could have been demanded from him.

In view of the above, the writ petition is allowed. The penal interest of Rs.29,558/- paid by the petitioner be released to him along with

simple interest @ 6 per cent per annum from the date of payment of the same by the petitioner till the date of its realization.

**(DEEPAK SIBAL)
JUDGE**

03.09.2015
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