

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1207 of 2001

Date of decision: 14.12.2016

Dr. Kaushalya Bhardwaj

... Petitioner

Versus

The State of Haryana & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. RK Malik, Sr. Advocate, with
Mr. Kuldeep Sheoran, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

Mr. Amardeep Singh Walia, Advocate,
for respondent No.3.

RAJIV NARAIN RAINA, J.(Oral)

Mr. Amardeep Singh Walia, Advocate, appears for respondent No.3 on Vakalatnama. Parties heard at some length for final disposal of the matter.

The issue of conversion of post of Lecturer in Hindi Department to the Mathematics department in the respondent privately managed aided college and correspondence exchanged between the management and the State Government has ultimately no bearing on the rights of the petitioner to claim her unpaid salary for the period of May, 1999 to March, 2000 i.e. for a period of 11 months which payments were denied to her despite being on duty and teaching in the college during the aforesaid period. This fact is not disputed by the management or that back salary is not owed. The State and the college are involved in a blame game while the petitioner suffered helplessly. It matters little to the petitioner

where the source of funding would come to provide her unpaid salary for the period of 11 months.

Learned counsel is right in contending that it is the primary duty of the school to discharge its liabilities towards its staff and pay salaries in the first instance and lodge claims to Government afterward from the deficit of grant-in-aid scheme by following the procedure prescribed. This is the position in law first propounded in Anandi Mukta Satguru Shree Mukta v. V.R. Rudani & ors., AIR 1989 SC 1607, wherein the Supreme Court observed that the Court is only concerned with the liability of the management of the college towards its employees. Under the relationship of master and servant, the management is primarily responsible to pay salary and other benefits to the employees. The management cannot say that unless and until the State compensates, it will not make full payment to the staff.

There is no doubt that the petitioner has a right to unpaid salary and to that extent the writ petition is allowed with a direction to the management of respondent No.3 to pay the amount in the first instance and be left free to dispute the issue with the State Government as to who shoulders the responsibility of payment of salary and in what proportion. The petitioner superannuated from service on March 31, 2005 and this petition has been pending since 2001. Since the petitioner is not at fault and has wrongly been deprived of use of salary representing 11 months of hard earned money, she would be entitled to simple interest on this amount @ 9% per annum from the date of filing of this petition. The liability of interest would also be open to adjustment inter se between the management and the

respondent State. Interest on outstanding salary is awarded for the reason that money due was illegally retained without just cause or legal justification earning interest for the management. The outstanding salary be determined and paid together to the petitioner with interest within two months from the date of receipt of a certified copy of the order, either from the Court or from the petitioner, whichever is earlier.

(RAJIV NARAIN RAINA)
JUDGE

14.12.2016
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>