

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

C.W.P No. 4160 of 1997

Date of decision : 06.05.2016

Rattan Singh

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Mukesh Verma, Advocate
for the petitioner

Mr. M.S. Sidhu, Addl. A.G. Haryana

RITU BAHRI , J. (Oral)

Petitioner was appointed as clerk with HARCOFED on 17.02.1968 and thereafter, was promoted up to the rank of Head Clerk on 22.07.1976. However, on 10.05.1988, he was transferred from Press Clerk to Head Office to look after the work of accounts. The petitioner was enjoying the benefit of ESI scheme as his salary was less than Rs.1000/- per month. In October, 1978, increment in the pay scale was given to various employees of printing press of the Harcofed to the extent of deduction of contribution from the salary of employees on account of application of the ESI scheme. The petitioner was granted

the claimed amount, vide order dated 21.03.1991. Since December, 1980, the petitioner was not covered under the ESI scheme and was getting the fixed medical allowance since December 1980. Thereafter, petitioner gave its representation to the Chairperson of the Harcofed on 31.01.1997 (P-2). Thereafter, petitioner received show cause notice dated 07.02.1997 for giving his option whether he would like to get benefit under the ESI scheme or fixed medical allowance (P-3). The petitioner gave his representations that he is not covered under the ESI scheme and is not entitled to get fixed medical allowance (P-4 to P-6). However, he received another notice dated 21.02.1997 (P-7) for deposit of Rs.6000/- spent in the office by the petitioner on the tea of official visitors from November 1988 to October 1997, who visited the Accounts Branch, to which he gave his reply dated 06.03.1997 (P-8). Thereafter, respondent No. 4 passed order dated 26.02.1997 for stopping the payment of fixed medical allowance and indoor treatment and was allowed the benefit of ESI scheme. Further petitioner was directed to deposit the amount drawn as fixed medical allowance/indoor treatment within 15 days, vide order dated 26.02.1997 (P-9), which is under challenge in the present writ petition.

The operation of impugned order was stayed till further orders, by this Court vide order dated 11.04.1997 and the present writ

petition was admitted on 16.01.1998.

Learned counsel for the petitioner submits that he is no longer in touch with the petitioner.

Keeping in view the fact that impugned order was passed on 11.04.1997 and now almost 19 years have gone by, the petitioner must have retired from the service.

Further even if the writ is dismissed, no recovery can be effected from the petitioner in view of judgment of Hon'ble the Supreme Court in a case of ***State of Punjab and others vs. Rafiq Masih and others, 2015 (1) RSJ 177.***

Accordingly, the writ petition is allowed and order dated 26.02.1997 (P-9) is hereby set aside.

(RITU BAHRI)
JUDGE

06.05.2016

G Arora