

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

CWP No. 18458 of 2016
Date of decision: 06.09.2016

Gora Lal Jindal

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Nakul Sharma, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks quashing of the communication dated 03.03.2016 (Annexure P-8) issued by respondent no. 3. Vide the said communication, the petitioner has been directed to deposit a sum of ₹75,904/- on account of the fact that he had wrongly received a sum of ₹85,266/- as reimbursement towards medical bills. The reasoning is on the ground that the payment was made without pre-audit and the excess amount has been paid. The said communication is in pursuance to the letter dated 29.02.2016 (Annexure P-9) addressed to respondent no. 3.

It is the case of the petitioner that the mother of the petitioner was suffering from breast cancer and had remained admitted in the hospital from 25.04.2012 to 30.04.2012 and accordingly surgery was conducted on her and she is suffering from a chronic disease. It is the case of the petitioner that before releasing the amount to the petitioner, respondent no. 2 had granted post facto sanction (Annexure P-4) to all the bills in question and, therefore, reliance placed upon notification dated 30.12.1985 (Annexure P-10) was not justified.

A perusal of the impugned communication would go on to show that admittedly, the amount already stood paid, whether rightly or wrongly. No show cause notice has been as such issued to the petitioner as to the grounds for which the amount is now sought to be recovered. A decision has already been taken vide the letter dated 29.02.2016 which led to the impugned communication dated 03.03.2016 (Annexure P-8). Resultantly, the present petition has been filed.

Notice of motion.

Ms. Lavanya Paul, AAG, Punjab accepts notice. Copy of the writ petition has been supplied to her.

In view of the above, reply is not felt necessary from the State.

Accordingly, this Court is of the opinion that before ordering recovery, at least a show cause notice should have been issued to the petitioner so that he was in a position to reply and object to the same. Thereafter, if the objections were found without any basis, an order of recovery could have been passed. The said procedure having not been followed, this Court is of the opinion that resort to the procedure followed is not proper and violates the principles of natural justice as such. It is for respondent no. 2 to take a decision on this.

Accordingly, the communication dated 03.03.2016 (Anexure P-8) is quashed and it is directed that appropriate show cause notice be issued to the petitioner and his response to the same be taken. Thereafter, respondent no. 2 who had sanctioned the bills, shall take a call on the issue whether the amount was payable to the petitioner or not. Accordingly, a speaking order be passed in case the explanation of the petitioner is found not justified. The said exercise be conducted within a period of 3 months

from the date of receipt of certified copy of the order. It is always open to the petitioner to challenge any order in accordance with law if it is adverse to him.

The writ petition stands allowed accordingly.

06.09.2016
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No