IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 2665 of 2013 (O/M)
Date of decision : 12.7.2016

DM College, Moga .... Petitioner (s)

Versus

State of Punjab and another .... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sameer Sachdeva, Advocate, for the petitioner.

Mr. Rajat Bansal, Assistant A.G. Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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<u>KULDIP SINGH J. (ORAL)</u>

The petitioner-DM College, Moga, has filed this petition for quashing the order dated 4.10.2012 (Annexure-P-6), passed by respondent No. 2, rejecting the claim of the petitioner-College for release of full CPF amount towards grant-in-aid, despite the fact that the CPF amount is a committed liability under the Grant in Aid Rules.

Undisputedly, the petitioner-College is a privately managed Government Aided College being run by elected Managing Committee. The stand of the petitioner is that as per the grant-in-aid rules, the contribution towards provident fund of employee is an approved item and, therefore, the State is liable to pay the same. The petitioner-College filed CWP No. 19525 of 2011, whereas vide order dated 9.1.2012 (Annexure-P-5), this Court directed the State to decide the claim of the petitioner-College in the light of the judicial pronouncement, as per Annexures-P-2 to P-5-A. Consequent thereto, the Government passed the speaking order dated 4.10.2012 (Annexure-P-6), wherein it was stated that the SLP is pending before the Hon'ble Supreme Court of India and the claim of the petitioner shall be maintainable as per the decision of the Hon'ble Supreme Court of India.

In the written reply, the State has taken the stand that the petitioner-College is to make the payment of CPF at the rate of 10% of the full salary and after that the State Government reimburse the claim in terms of CPF at the rate of 10% of the pay, as per the Contributory Provident Fund Rules, 1962. It was stated that the judgments rendered in CWP No. 8774 of 2004 and CWP No. 76 of 2006, on the basis of which the claim was pending before the Hon'ble Supreme Court of India, in which the petitions have been revived and ordered to be heard by the High Court.

The judgments rendered by this Court in CWP No. 8774 of 2004 and CWP No. 76 of 2006, directing the release of GPF, leave encashment and gratuity was unsuccessfully challenged in the LPA. However, admittedly, now the Apex Court has remanded this matter to this Court for re-hearing. It comes out that regarding the contribution towards CPF, there was no dispute between the parties. Even in the present case, the State has taken the stand that the petitioner-College should first pay the contribution towards the CPF and then claim the reimbursement of the same from the State, as per the Contributory Provident Fund Rules, 1962.

The learned counsel for the petitioner, while pointing to the grant-in-aid rules (Annexure-P-1) wherein the contribution towards the provident fund of the employee is an approved item of expenditure, the State has not denied that the contribution be first made by the petitioner-College and then claim the reimbursement from the State in accordance with the rules. It being so, the present petition is allowed to the extent that the petitioner-College shall first pay the contribution towards the provident fund/CPF of the employees and then claim the same from the State Government in terms of grant-in-aid rules. The petitioner-College after making the payment to the employees shall submit its claim to the respondent-State, which shall reimburse the same within a period of three months from the date of submission of the claim.

(KULDIP SINGH)
JUDGE

12.7.2016
sjks