IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

204 **CWP-20514-2012 (O&M)**
Date of decision:12.05.2017

Rajbir Singh and others

....Petitioners

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Ms. Mandeep Kaur, Advocate for
Mr. D.S.Sandhu, Advocate for the petitioners.

Mr. Sushil Gautam, AAG, Punjab.

P.B. Bajanthri, J. (Oral)

Petitioners have questioned validity of orders dated 03.08.2012, 04.09.2012, 19.03.2012, 03.08.2012, 09.08.2012, 03.08.2012 and 07.09.2012 (Annexures P1 to P7) by which recoveries have been effected from the petitioners salary due to misuse of diesel allotted to them for the purpose of using the Haryana Roadways Vehicles. Such recovery or deduction from the salary is impermissible in view of Rule 18 of the Haryana Transport Department (Group C) Haryana Roadway Service Rules, 1995 read with Rule 7 of the Payment of Wages Act, 1936. Section 7 of the Payment of Wages Act, 1936 reads as under:-

"7. Deductions which may be made from *wages:-*

(1) Notwithstanding the provisions of [the Railways Act, 1989 (24 of 1989)] the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act.

[Explanation I].—Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

[Explanation II.—Any loss of wages resulting from the imposition, for good and sufficient cause, upon a person employed of any of the following penalties, namely:—

(i) the withholding of increment or promotion (including the stoppage of increment at an efficiency bar);

(ii) the reduction to a lower post or time scale or to a lower stage in a time scale; or

(iii) suspension;

shall not be deemed to be a deduction from wages in any case where the rules framed by the employer for the imposition of any such penalty are in conformity with the requirements, if any, which may be specified in this behalf by the State Government by notification in the Official Gazette.]

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:-

(a) fines;

(b) deductions for absence from duty;

(c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is

required to account, where such damage or loss is directly attributable to his neglect or default;

[(d) deductions for house-accommodation supplied by the employer or by Government or any housing board set up under any law for the time being in force (whether the Government or the board is the employer or not) or any other authority engaged in the business of subsidising house-accommodation which may be specified in this behalf by the State Government by notification in the Official Gazette;]

(e) deductions for such amenities and services supplied by the employer as the [***] State Government [or any officer specified by it in this behalf] may, by general or special order, authorise;

Explanation.—The word "services" in [this clause] does not include the supply of tools and raw materials required for the purposes of employment;

[(f) deductions for recovery of advances of whatever nature (including advances for travelling allowance or conveyance allowance), and the interest due in respect thereof, or for adjustment of over-payments of wages;

(ff) deductions for recovery of loans made from any fund constituted for the welfare of labour in accordance with the rules approved by the State Government, and the interest due in respect thereof;

(fff) deductions for recovery of loans granted for house-building or other purposes approved by the State Government, and the interest due in respect thereof;]

(g) deductions of income-tax payable by the employed person;

(h) deductions required to be made by order of a Court or other authority competent to make such order;

(i) deductions for subscriptions to, and for repayment of advances from any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies or any recognized provident fund as defined [in clasue (38) of section 2 of the Income-tax Act, 1961 (43 of 1961)] or any provident fund approved in this behalf by [the appropriate Government], during the continuance of such approval;[***]

(j) deductions for payments to co-operative societies as approved by [the appropriate Government] [or any officer specified by it in this behalf] or to a scheme of insurance maintained by the Indian Post Office; 5[and]

[(k) deductions, made with the written authorisation of the person employed for payment of any premium on his life insurance policy to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), or for the purchase of securities of the Government of India or of any State Government or for being deposited in any Post Office Savings Bank in furtherance of any savings scheme of any such Government;]]

[(kk) deductions made, with the written authorisation of the employed person, for the payment of his contribution to any fund constituted by the employer or a trade union registered under the Trade Unions Act, 1926 (16 of 1926), for the welfare of the employed persons or the members of their families, or both, and approved by 10[the

appropriate Government] or any officer specified by it in this behalf, during the continuance of such approval;

(kkk) deductions made, with the written authorisation of the employed person, for payment of the fees payable by him for the membership of any trade union registered under the Trade Unions Act, 1926 (16 of 1926);]

[(l) deductions, for payment of insurance premia on Fidelity Guarantee Bonds;

(m) deductions for recovery of losses sustained by a railway administration on account of acceptance by the employed person of counterfeit or base coins or mutilated or forged currency notes;

(n) deductions for recovery of losses sustained by a railway administration on account of the failure of the employed person to invoice, to bill, to collect or to account for the appropriate charges due to that administration, whether in respect of fares, freight, demurrage, wharfage and cranage or in respect of sale of food in catering establishments or in respect of sale of commodities in grain shops or otherwise;

(o) deductions for recovery of losses sustained by a railway administration on account of any rebates or refunds incorrectly granted by the employed person where such loss is directly attributable to his neglect or default;]

[(p) deductions, made with the written authorisation of the employed person, for contribution to the Prime Minister's National Relief Fund or to such other Fund as the Central Government may, by notification in the Official Gazette, specify;]

[(q) deductions for contributions to any insurance scheme framed by the Central Government for the benefit of its employees.]

[(3) Notwithstanding anything contained in this Act, the total amount of deductions which may be made under sub-section (2) in any wage-period from the wages of any employed person shall not exceed—

(i) in cases where such deductions are wholly or partly made for payments to co-operative societies under clause (j) of sub-section (2), seventy-five per cent. of such wages, and

(ii) in any other case, fifty per cent. of such wages: Provided that where the total deductions authorised under sub-section (2) exceed seventy-five per cent. or, as the case may be, fifty per cent. of the wages, the excess may be recovered in such manner as may be prescribed.

(4) Nothing contained in this section shall be construed as precluding the employer from recovering from the wages of the employed person or otherwise any amount payable by such person under any law for the time being in force other than [the Railways Act, 1989 (24 of 1989)]"

So also Rule 18 of the Haryana Transport Department (Group C) Haryana Roadway Service Rules, 1995 reads as under:-

18. In accordance with the provisions of Clause (e) of sub-Section (2) of Section 7 of the Payment of Wages Act, 1936 deductions may be made on account of damage or loss caused to goods or vehicle expressly entrusted to the members of the service for custody or work or for loss of money or property for which he or

> she is required to account for, where such damage or loss is directly attributable to his or her negligence or willful or international default."

In view of the above provisions impugned orders are set aside. CWP stands allowed.

(P.B. BAJANTHRI)
JUDGE

12.05.2017
pooja saini

Whether speaking/reasons Yes/No

Whether Reportable: Yes/No