

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 12071 of 2017 (O/M)
Date of decision : 30.5.2017

Deepak Kumar

..... Petitioner (s)

Versus

State of Punjab and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Inderjit Sharma, Advocate, for the petitioner.

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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KULDIP SINGH J. (ORAL)

The petitioner joined the services of Municipal Council, Gurdaspur, on 1.12.1977. It comes out that this Court, on the writ petition of respondent-department passed a judgment on 22.5.2009, seeking recovery of monetary benefits released in excess to the employees on account of mistake committed by the concerned competent authority in determining the emoluments payable to them. Accordingly, the payments were deducted from the salary of the petitioner in installments starting from year 2009 to year 2014. The petitioner retired from service on 31.5.2014. Thereafter, he approached this Court by way of filing CWP No. 19437 of 2016, titled as Deepak Kumar Versus State of Punjab and others, decided on 19.9.2016 (Annexure-P-4), directing respondents to decide the representation of the petitioner within two months from the date of receipt of certified copy of the order by passing a speaking order. Now, a speaking order dated Nil (Annexure-P-5) has been passed. The perusal of the said speaking order

CWP No. 12071 of 2017 (O/M)

shows that the petitioner has filed the affidavit that if the excess amount is received and Municipal Council intends to make the recovery of said excess amount, the same can be recovered during his service period.

I am of the view that in this case, due to mistake of an employee, the excess payment was made. Respondents made the recovery in pursuance to the order passed by this Court. Recoveries were made between the year 2009 and year 2014 in installments from the salary of the petitioner when the petitioner was in service. Therefore, the authority of the Apex Court in State of Punjab and others etc. Versus Rafiq Masih (White Washer) etc., 2015 AIR (SC) 696, will not be applicable in the present case. Moreover, when the petitioner was granted the said promotion, he submitted an affidavit, undertaking that if the excess payment is made, the same can be recovered from him during his service period. Accordingly, the same was recovered during his service period according to his own undertaking. There is no merit in the present writ petition. The same is accordingly dismissed.

(KULDIP SINGH)
JUDGE

30.5.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No