

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.19160 of 2017
DECIDED ON: August 25, 2017

BUDH DEV YADAV

.....PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Dhiraj Chawla, Advocate,
for the petitioner.

JASPAL SINGH, J.

By virtue of instant petition preferred under Article 226 of the Constitution of India, petitioner has sought issuance of a writ in the nature of certiorari quashing the impugned order dated 16.06.2017 (Annexure P-11). With further prayer for issuance of writ in the nature of mandamus directing the respondents to grant the arrears of salary for a period of 1 year, 1 month and 20 days, for which, his appointment was delayed by the respondents, for no fault on his part.

2. Undisputably, State of Haryana invited applications for the post of President District Consumer Redressal Forum through advertisement dated 30.06.2009, for which, petitioner applied and his name appeared at Serial No.1 in the selected list of the candidates. However, he was not given appointment.

Rather, Government decided to keep his appointment pending till the decision of a matter pending before the Hon'ble Supreme Court. The appointment was up to the age of 65 years and petitioner had already completed 60 years of age at the time of his selection. He preferred CWP No. 23263 of 2011, which was disposed of by this Court so that the representation Annexure P-4 (in the aforesaid petition) may be decided. In pursuance of said order, writ petition was withdrawn and the petitioner sent a copy of order of this Court but the representation was not decided which led to filing of COCP No. 1563 of 2012. Faced with the aforesaid situation, respondent rejected his representation on the ground that matter is already pending in the Hon'ble Apex Court and, thus, he is not entitled for appointment. Subsequently, after the decision of the Hon'ble Apex Court, respondents issued appointment letter dated 21.03.2013 and in pursuance thereof, he joined as President of the District Consumer Forum, Bhiwani. The other candidates, who were selected for the appointment of aforesaid post of President, District Consumer Forum vide order dated 31.08.2010, had joined immediately and served the department.

3. The sole contention of learned counsel for the petitioner is that petitioner was not allowed to join and given the appointment letter by the respondents without any cogent and convincing reason and just on account of pendency of some matter before the Hon'ble Apex Court. There is no fault on the part of the petitioner, who has been allowed to join his service vide appointment letter dated 21.03.2013. After his retirement, he preferred CWP No.5323 of 2017, which disposed of vide order dated 16.03.2017, while remanding the matter for fresh consideration of representation dated 29.03.2016

by passing a speaking order. In pursuance of order dated 16.03.2017, vide order dated 16.06.2017 claim of the petitioner for grant of salary for the period of 1 year, 1 month and 20 days has been rejected.

4. Undoubtedly, petitioner was not issued the appointment letter due to pendency of a matter before the Hon'ble Apex Court. It was only when the matter was finally disposed of, he was given the appointment and he joined as such. The petitioner did not perform any duty during the period of 1 year, 1 month and 20 days, for which, he is claiming the salary. Moreover, the Hon'ble Apex Court was already seized of the matter by way of SLP No.17463 of 2010, titled as "**Deepak Aggarwal v. Keshav Kaushak**" which has direct effect upon the appointment of the petitioner and after the disposal thereof, his case was considered and given the appointment.

5. Thus, in view of the given circumstances, he is not entitled to the salary, for which, he admittedly did not perform his duty.

6. Dismissed.

August 25, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned **Yes**

Whether reportable **Yes/No**