

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.6037 of 2017

Date of Decision: 23.03.2017

C. Chandra Kumar

... Petitioner

Versus

The Director General, Border Roads
Organization and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. R.D. Bawa, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

1. By way of this petition brought under Article 226 of the Constitution of India, the petitioner seeks directions to the respondents on the following prayer:-

“(b) Issue a writ of certiorari quashing the action of respondents showing the petitioner on Earned Leave from 07.02.2016 to 14.05.2016, Half Pay Leave from 15.05.2016 to 09.07.2016 and Extra Ordinary Leave without pay from 10.07.2016 to 24.11.2016 as shown in monthly pay slip of petitioner for the month of Feb., 2017 (P-2) without communicating any order to the petitioner to that effect and without the authority of law and especially in view of order dated 07.11.2016 (P-1) passed by the Hon'ble Gauhati High Court holding therein that on transfer of the petitioner to HQ Project Vijayak (GREF) from 1444 Bridge Construction Company

(GREF) vide transfer order dated 21.09.2015 the act of issuing movement order dated 22.01.2016 to the petitioner without payment of transfer grant, was illegal and a direction was issued to the respondents to consider petitioner's application dated 30.01.2016 for payment of transfer grant and packing allowance etc. and release whatever amount is legally due to the petitioner towards transfer grant and packing allowance and it was further directed that the movement order dated 22.01.2016 shall not be given effect to until and unless the amount due to the petitioner towards the transfer grant and packing allowance is paid.”

2. The challenge in this petition is to the monthly pay slip for February 2017 (Annex P-2) issued to the petitioner which reduces his salary by showing the petitioner on leave from February 07, 2016 to November 24, 2016. The reason why deduction should not be made has been explained in the petition but this Court would not at this stage go into the reasons ascribed by the petitioner in view of the nature of the order proposed to be passed.

3. The further grievance of the petitioner as brought to Court and which appears legitimate, is that neither an advance notice was issued to the petitioner nor pre-decisional hearing was granted nor reasons for the deduction conveyed before the pay was reduced suddenly and arbitrarily in violation of the principles of natural justice.

4. Since there is absence of reason assigned in Annex P-2 or conveyed to the petitioner separately then it would be in the fitness of things that the competent authority should hear the petitioner personally, examine

the service record together with the petitioner, ask him to show cause why the pay should not be reduced and furnish legal justification in treating him on leave for the above said period when he claims otherwise and thereafter pass a final order and communicate the same to him.

5. In the above facts and circumstances, this Court deems it just and expedient to issue a mandamus to the respondents to treat this petition as a representation, hear out the petitioner on his grievance, pay due regard to the judgment of the Gauhati High Court relied upon by the petitioner and proceed to pass a speaking order in accordance with law within three months from the date of receipt of certified copy of this order or presentation before the competent authority by the petitioner, since the order is issued *ex parte*.

6. However, till such time the petitioner is not heard and an order passed by the competent authority, the operation of the impugned monthly pay slip for “02/2017” (Annex P-2) shall remain suspended to the extent it treats the petitioner on leave for the aforesaid disputed period and the petitioner entitled to full salary without deductions. In case the final decision is not taken within the time frame underlined above, the grievance shall be treated as automatically redressed and the claim of the petitioner deemed to be accepted.

7. While passing the order this Court expresses no opinion on the merits of the subject claim so as not to prejudice either of the parties and the grouse of the petitioner will be examined and decided independently as per the prevailing rules and regulations in the Border Roads Organization.

8. With observations and directions as above, the petition stands

disposed of.

(RAJIV NARAIN RAINA)
JUDGE

23.03.2017
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>