

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: December 13, 2017

+ **W.P.(C) 11049/2017 & C.M. 45213/2017**

INDERJEET SINGH SIDHU Petitioner
Through: Mr. S.N. Kaul, Advocate

Versus

UNION OF INDIA & ORS.Respondents
Through: Ms. Monika Arora, CGSC &
Mr. Harsh Ahuja, Advocate for respondents
No.1 & 2-UI

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
ORAL

1. Petitioner was working as Chief Operating Officer with second respondent and on 29th March, 2017 he voluntarily tendered his resignation with the prayer that he may be relieved at the earliest. Vide E-mail communication of 31st March, 2017 (Annexure P-10 colly.), petitioner was informed by the Management of second respondent that his resignation submitted on 29th March, 2017 has been accepted w.e.f. 31st March, 2017. According to petitioner, this communication was received by him on 07:29 p.m. and at 07:40 p.m., he had replied to second respondent vide e-mail on the same very date i.e. 31st March, 2017 that he is not in a position to pay three months' salary in lieu of notice period and

so, his notice period be set off against his Privileged Leave and the balance notice period be waived off or in the alternative, he may be allowed to serve for the notice period. However, on 1st April, 2017, petitioner had handed over the charge to the designated officer of second respondent and it is so evident from *Annexure P-9* to this petition. It is the case of petitioner that on 2nd May, 2017, vide e-mail he had sought relieving from second respondent but to no avail.

2. During the course of hearing, learned counsel for petitioner had drawn the attention of this Court to e-mail Communication of 24th June, 2017 (*Annexure P-11*) by second respondent, wherein it was disclosed to petitioner that notice pay has been deducted from the claimed amount but still recovery of ₹10,182/- towards the hotel bill is to be settled by petitioner. Vide aforesaid e-mail communication of 24th June, 2017 (*Annexure P-11*), it was also conveyed to petitioner that as per company's rules, there is no facility to adjust Privileged Leave against notice pay, except in case of employees who submit resignation on medical grounds, subject to certification by a government Medical Board that he/she is unfit for continuing in service, and subject to approval of CMD. Counsel for petitioner submits that vide aforesaid Communication of 24th June, 2017 (*Annexure P-11*), it was clarified by second respondent that petitioner had not been exempted from payment of notice pay and was called upon to settle the dues.

3. Learned counsel for petitioner further submits that a Legal Notice of 31st August, 2017 (*Annexure P-12*), was sent to second respondent,

which has been replied to on behalf of second respondent vide Communication of 17th November, 2017 (*Annexure P-13*).

4. Upon hearing and on perusal of impugned order 31st March, 2017 (*Annexure P-1*), e-mail of 24th June, 2017 (*Annexure P-11*) of second respondent and the material on record, I find that second respondent in its communication of 24th June, 2017 (*Annexure P-11*), has categorically stated that the amount has been deducted from the claimed amount. However, in this very e-mail of 24th June, 2017 (*Annexure P-11*), there is contradiction, as second respondent has stated that petitioner is not exempted from payment of notice pay. This apparent contradiction is not reconciled in any subsequent communication or reply to Legal Notice of 7th November, 2017 (*Annexure P-13 colly.*) of second respondent.

5. In such a situation, it is deemed appropriate to permit petitioner to make a concise Representation highlighting the apparent contradiction in e-mail of 24th June, 2017 (*Annexure P-11*) of second respondent and in case such a Representation is received by second respondent within a week, then it be decided by passing a speaking order while explaining the apparent contradiction in the e-mail of 24th June, 2017 (*Annexure P-11*) of second respondent and spell out as to why a compassionate view be not taken, by either adjusting the notice pay against the Privileged Leave or in the alternative, what is the impediment to permit petitioner to serve during the notice period, at a place deemed appropriate by second respondent. The decision on petitioner's Representation be taken by second respondent within a period of six weeks and its fate be made

known to petitioner within a week thereafter, so that petitioner may avail of the remedies, as available in law, if need be.

6. With aforesaid directions, this petition and application are disposed of.

Dasti.

**SUNIL GAUR
(JUDGE)**

DECEMBER 13, 2017

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