

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 5964 of 2018

Manoj Kumar Singh S/o Amar Bahadur Singh, aged about 45 years, Occupation Ex.Police Constable No.1202, Police Station Telibandha, Raipur (C.G.), Present R/o village Shahpur, Post Office Kankalpur, Police Station Tala, Tahsil Amarpatan, District Satna (M.P.).

---Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Department of Home (Police), Government of Chhattisgarh, Mahanadi Bhawan, Mantralaya, Naya Raipur, Mantralaya, Naya Raipur (C.G.), District Raipur.
2. The Director General of Police, State of Chhattisgarh, Police Head Quarter, Raipur (C.G.).
3. The Inspector General Police, Raipur Region, District Raipur (C.G.).
4. The Superintendent of Police, Raipur, District Raipur (C.G.).
5. Additional Superintendent of Police (Rural), Raipur, District Raipur (C.G.).

---Respondents

For petitioner	:	Shri Sushil Dubey, Advocate.
For State	:	Shri S.P.Kale, Dy.A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/09/2018

1. With the consent of the parties, the matter was heard at motion stage itself.
2. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 09/07/2018.
3. It is a case where the petitioner was working as a Constable under the respondents.

4. It appears from the record that, from 28/05/2011, the petitioner was unauthorisedly absent. The petitioner finally was terminated from service vide order dated 30/06/2016. However, during the intervening period i.e. during the period of his unauthorised absent, the petitioner has been paid salary by the respondents uninterruptedly.

5. Now after more than 2 years after the order of termination has been passed, the respondents have issued the impugned order seeking for refund of an amount of Rs.11,62,145/- which was paid to the petitioner as a salary for that period of absent.

6. The State counsel submits that, the said amount has been inadvertently paid to the petitioner which he was not otherwise entitled for and therefore the respondents have only issued a letter asking him to refund the said amount which he was not otherwise entitled for. He further submits that, there was a misrepresentation made in the department by the petitioner at the first instance of having already filed a Writ Petition and have obtained an interim relief which infact was not filed at all and for this reason also, the petitioner does not deserve any protection.

7. In the given facts, what apparently is evident from record is that, the services of the petitioner stood terminated vide order dated 30/06/2016. The dispute pertains to the wages paid to the petitioner prior to his being terminated. There is no allegation of the petitioner having made any misrepresentation or having played fraud for the purpose of obtaining salary

for the intervening period. Prior to 30/06/2016, the status of the petitioner was that of an employee or a Police Constable under the respondents.

8. In that circumstances, since the respondents have voluntarily paid salary to the petitioner they are restrained from now initiating any recovery proceedings for the salary for the period that was paid to the petitioner.

9. Moreover, there does not appear to be any proceedings drawn at any point of time before the termination order was issued for stopping payment of wages to the petitioner by the respondents.

10. Given the aforesaid facts and circumstances of the case, the impugned order does not have any force of law that too after the termination order being passed more than 2 years ago. The service rules itself does not provide for any such provision from initiating any recovery proceedings by the respondents against the employees who were terminated long ago.

11. Reserving the right of the respondents to avail other remedies available to them under the law, the present Writ Petition stands allowed and disposed off, the impugned order is accordingly set aside/quashed.

Sd/-

(P. Sam Koshy)
JUDGE