

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14011 of 2014

Date of Decision: 20.09.2018

Bhangi Ram

... Petitioner

Versus

Uttari Haryana Bijli Vitran
Nigam and others

... Respondents

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

Present: Ms. Sunita Nambiar, Advocate,
for Mr. Balkar Singh, Advocate,
for the petitioner.

Mr. Sunil Nehra, Advocate,
for Mr. P.S. Poonia, Advocate,
for the respondents.

RAJIV NARAIN RAINA, J.(Oral)

1. The issue arising for consideration in the instant case was crystallized by this Court vide interim order dated November 09, 2017 which reads as follows:-

“The petitioner spent time in hospital on account of having received injuries, sustained doing work in the course of his employment, i.e. he being a Linesman, is stated to have been repairing an electrical line upon a complaint received from a consumer, and during the course of such repair he is stated to have fallen down and received injuries. Due to the injuries he is stated to have remained admitted to hospital for 284 days.

He was initially given full salary for the period he remained in hospital and could not report on duty, but vide the impugned notices/orders, Rs.49,990.50 ps. have been sought to be recovered from him, on the ground that he had exhausted all leave of the kind due to him, during

the period of his hospitalization, and therefore could not avail of full salary.

As noticed hereinabove, the petitioner having sustained injuries leading to hospitalization as a direct result of performing his duties and it not being stated that he was negligent in any manner in performing that duty, I do not see why the period spent in hospital should be treated as leave of the kind due to him, and not wholly as duty period.

Learned counsel for the parties would look into the Employees' Compensation Act also, to determine as to whether there is any provision therein with regard to payment of full salary for the period that an employee remains hospitalised due to an injury received while performing duty.

Adjourned to 13.11.2017.”

2. It is not in dispute that the petitioner while working as a Lineman sustained injuries while repairing an electrical line on a complaint received from a consumer. It is not disputed that the petitioner received grievous injuries arising out of and in the course of employment. It is not disputed that the petitioner has received compensation for the injuries under the Employees' Compensation Act. It is also not disputed that the petitioner remained under treatment in hospital for 284 days as an indoor patient (discharged once but re-admitted). The date of injury was August 03, 2000 and the date of joining service; July 26, 2002.

3. The petitioner was given full salary for the period he remained in hospital as he could not discharge duty because of the injuries sustained by him. He has been confronted by the impugned notice asking him to deposit a sum of ₹49,990.50 ps. In the accounts of the department or the same will be recovered from salary. The reason assigned in the recovery notice is that

he had exhausted all leave of the kind due to him during the period of hospitalization and, therefore, he could not avail full salary. If the period of indoor treatment is admitted then I also fail to see how a case of recovery can be made out against the petitioner for the period of hospitalization.

4. The petitioner has approached this Court for directions to quash the order dated September 26, 2013 (P-1) for recovery of excess paid salary. That apart, learned counsel for the petitioner submits that salary for the month of December 2001 still remains to be paid. This fact is not disputed by the respondents.

5. In view of the factual position explained above, this petition is allowed. The impugned order dated September 26, 2013 (P-1) is quashed. A direction is issued to the respondents to pay one months' salary due for the month of December 2001 to the petitioner within a month, if not already paid.

20.09.2018
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No