

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO.12159 OF 2017

DATE OF DECISION: DECEMBER 03, 2019

Jasvir Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE SUVIR SEHGAL

Present: Mr.Jugam Arora, Advocate for
Mr.RK Arora, Advocate for the petitioner.

Mr.Navdeep Chhabra, DAG Punjab.

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SUVIR SEHGAL, J.

The petitioner joined the Department of Health and Family Welfare, Punjab as Ward Attendant, Class-IV, on 16.4.2001. On 14.3.2012, an FIR under Sections 354, 353, 186, 323 of the Indian Penal Code was registered against him. He was placed under suspension from 15.3.2012 to 10.7.2013. After trial, the petitioner was acquitted in the case vide judgment dated 21.3.2015. By an order dated 8.12.2015, Annexure P2, the respondents treated the period of suspension as leave of the kind due, which was followed by another order dated 26.5.2016, Annexure P3. Subsequently, by order dated 11.5.2017, Annexure P4, the respondents found that an excess payment of Rs.84,100/- had been made to the petitioner and sought recovery of the same from him.

2. The petitioner filed the present writ petition, inter alia,

for quashing the orders dated 8.12.2015, 26.5.2016 and 11.5.2017, Annexures P2 to P4, primarily on the ground that no show cause notice had been issued to him nor had he been afforded an opportunity of hearing before passing the said orders.

3. After hearing, this Court passed the following order dated 10.12.18:

“Petitioner while serving as a Ward Attendant on regular basis and posted at Civil Hospital, Amargarh was placed under suspension vide order dated 15.3.2012 and re-instated on 11.7.2013. The reason for placing him under suspension was pending criminal trial in case FIR No.23 dated 14.3.2012 under Sections 354, 332, 186 IPC on the complaint of a Staff Nurse posted in the same hospital. Petitioner is stated to have been acquitted by grant of benefit of doubt.

Be that as it may, the petitioner claims neither to have been arrested nor any departmental inquiry was initiated. However, the aforesaid period of suspension was treated as Leave of the Kind Due vide order dated 8.12.2015 (P-2).

The grievance is that vide subsequent order dated 26.5.2016 (P-3), recovery of the subsistence allowance has been ordered on account of non availability of some portion of granted leave not available in his account.

In view of the petitioner perhaps being entitled to the release of full salary for the period

(15.03.2012 to 11.07.2013), learned State Counsel prays for time to consider the withdrawal of the impugned order (P-3).

List on 20.12.2018.

To be shown in urgent."

4. In pursuance thereto, the State has filed a short affidavit of Dr.Amrit Pal Singh, Homeopathic Medical Officer, Community Health Centre, Amargarh (Sangrur), paras 2 to 4 thereof are as under:

"2. That the suspension period of the petitioner w.e.f. 15.3.2012 to 10.7.2013 has already been treated as duty period, vide order No.E-4/19/41 dated 16.1.2019 by the Respondent No.3.

3. That the pay of the petitioner has also re-fixed by the respondent No.4 vide order No.E-1/19/129 dated 21.01.2019.

4. That the payment after re-fixing the pay is being made shortly to the petitioner."

5. In view of the stand having been taken by the respondents in the above affidavit, the claim of the petitioner stands satisfied. However, the counsel for petitioner has submitted that after re-fixation of his pay by order dated 21.1.2019, the petitioner has not been paid any monetary benefit.

6. Counsel for the State does not have any instructions in this regard.

7. In view of the above, writ petition is disposed of with the direction to the respondents that in case the consequential

benefits have not been paid to the petitioner, the same be paid to him within a period of three months from the date of receipt of a certified copy of this order after adjusting the amount of Rs.84,100/- which has been paid to him in excess. In case any recovery has been effected from the petitioner out of the amount of Rs.84,100/-, the same be refunded within the aforesaid period.

DECEMBER 03, 2019
SRM

(SUVIR SEHGAL)
JUDGE

Note: Whether speaking/reasoned? Yes/No
Whether referred to Reporter? Yes/No