

234

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CWP-11217-2020**

**Date of decision: October 16, 2020**

Gaurav

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

**Present:** Mr. Lekh Raj Sharma, Advocate for the petitioner.

Mr. Ravinder Singh Dhull, Additional AG Haryana.

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**MAHABIR SINGH SINDHU, J**

Present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the impugned notice dated 11.02.2020 (P-4), whereby, three members committee was constituted to replace the petitioner with other employee.

In pursuance of notice of motion issued by this Court, short reply dated 29.09.2020 of Dr. Jasbir Singh Ahlawat, District Ayurvedic Officer, Palwal has been filed on behalf of the respondents and para No.3 thereof reads as under:-

*“3. That the present writ petition came up for hearing before this Hon'ble Court on 05.08.2020 and this Hon'ble Court was pleased to issue notice of motion, the relevant part of which is reproduced as below:-*

***“Meanwhile, the petitioner shall not be replaced  
by another set of contractual employee(s).”***

*In this context it is submitted that the petitioner was  
employed as part time employee (water carrier) and is*

*working till today on the said post. The petitioner is not being replaced by the another set of part time employee.”*

Also relevant to mention here that in para-1 of the above affidavit, it is averred that “arrears of wages amounting to Rs.60,372/- have since been paid to the petitioner, hence, the writ petition has been rendered infructuous”.

On 06.10.2020, during the course of hearing, learned counsel for the petitioner raised an objection to the effect that assertion made in para-1 of the affidavit regarding payment of Rs.60,372/- is factually incorrect as the petitioner has not received any wages till date. Faced with the above situation, learned State counsel sought time to verify the factum of payment of wages to the petitioner and case was adjourned to 08.10.2020. Since no instructions were supplied by the respondents upto 08.10.2020, therefore, some more time was asked by learned State counsel for making payment to the petitioner in the following manner:-

*“Learned State counsel has assured the Court that an amount of Rs.60,372/-, on account of arrears of wages, shall be paid to the petitioner, positively, before the next date of hearing.*

*Posted on 16.10.2020.*

*Interim order to continue.”*

Today, at the outset, it is acknowledged by learned counsel for the petitioner that an amount of Rs.60,372/- has been received by the petitioner on 14.10.2020, but not on 15.09.2020 as claimed by the deponent in his affidavit dated 29.09.2020.

In view of the above discussion, following conclusion is discernible:-

- (i) Respondents are not going to replace the petitioner with

any other employee,

(ii) Petitioner has received the wages to the tune of Rs.60,372/- and as on today, nothing is due.

Although, in para-1 of the above affidavit, it was asserted by the deponent that petitioner has been paid an amount of Rs.60,372/- on 15.09.2020, but as a matter of fact, he received the same only on 14.10.2020. No doubt, the amount of Rs.60,372/- was deposited by the deponent for making payment to the petitioner on account of wages, but as submitted by learned State counsel, the same was delayed due to some objections raised by the treasury. Thus, there is no hesitation to construe that delay, if any, was not intentional, but beyond the control of the deponent. At the same time, it deserves to be mentioned here that deponent ought to have verified the factual position before making such assertions in a manner which may give cause to the petitioner to join the issue.

Be that as it may; now the salary has been received by the petitioner and he is not being replaced by the respondents with some other employee, thus, no cause of action survives in the writ petition and the same is rendered infructuous.

Ordered accordingly.

However, before parting with the order, officer concerned is advised to choose the appropriate words while filing affidavit in such like matters to avoid any complications.

**(MAHABIR SINGH SINDHU)**  
**JUDGE**

**October 16, 2020**

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No