

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

303

CWP-8325-2021 (O&M)
Date of Decision :11.10.2022

V.K. Suri

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manohar Lall, Advocate for the petitioner.

Mr. Vivek Saini, Addl. A.G. Haryana.

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Harsimran Singh Sethi, J. (Oral)

CM-8630-CWP-2021

Application is allowed, as prayed for.

Replication to the written statement filed on behalf of respondents No.1 and 2 is taken on record.

CWP-8325-2021

In the present writ petition, the grievance of the petitioner is that despite accepting the request of the petitioner for the grant of fixed medical allowance starting from financial year April, 2017, the same has not been released in favour of the petitioner, which act of the respondents is causing prejudice to the petitioner.

As per the averments made in the present writ petition, the

petitioner retired from service as Deputy District Attorney on 31.10.1994 (though, in the paragraph-2 of the writ petition, it has been wrongly mentioned as 31.10.1996). After the retirement, an employee is entitled for medical allowance either the fixed medical allowance, which he receives after retirement every month or an open medical allowance, which he can claim, when the need so arises. In the year 2016, by way of a representation, the petitioner requested the respondents that he be given fixed medical allowance, which request of the petitioner was considered by the administrative department and order dated 07.12.2016 (Annexure P/3) was passed allowing the petitioner benefit of fixed medical allowance with effect from the financial year starting from April, 2017. After waiting for 03 years for the implementation of the said letter, the petitioner has filed the present petition seeking implementation of order dated 07.12.2016 (Annexure P/3) passed by the respondents.

After notice of motion, the respondents have filed reply, wherein, it has been submitted that though, letter dated 07.12.2016 (Annexure P/3) was written by the Administrative Department but as the petitioner failed to file an appropriate undertaking before the concerned Treasury Officer that he is not availing open medical allowance and will opt for fixed medical allowance, letter dated 07.12.2016 (Annexure P/3) cannot be implemented.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The factum that the administrative department has passed order dated 07.12.2016 (Annexure P/3) giving the petitioner benefit of fixed medical allowance starting from financial year April, 2017 onwards is not in

dispute. The only dispute is whether the said letter was to be implemented after filing an appropriate undertaking by the petitioner before the Treasury Officer concerned or once an administrative department has given the benefit, the same needs to be complied with by the Treasury Officer. The medical allowance admissible to a retired employee is to be given by the administrative department. Treasury officer is only a mode of execution of the decision of the administrative department.

In the present case, administrative department has already passed an order dated 07.12.2016 (Annexure P/3) allowing the petitioner benefit of fixed medical allowance starting from financial year April, 2017 onwards. That being so, it was the duty of the administrative department to send the said order to the Treasury Officer for compliance so that the petitioner be given the relief, which was made admissible to him by the administrative department. The stand of the respondents that the petitioner was required to give undertaking before the Treasury Officer is not at all correct. Once the administrative department has already allowed the benefit of fixed medical allowance to the petitioner starting from financial year April, 2017, no further undertaking is required to be given by the petitioner before the Treasury Officer.

Keeping in view the above, the present petition is allowed.

Let respondents calculate the amount for which the petitioner becomes entitled for, keeping in view the order dated 07.12.2016 (Annexure P/3) passed by the respondents, by which, the petitioner was held entitled for fixed medical allowance starting from financial year April, 2017 and the arrears of the medical allowance be paid to the petitioner within a period of two months from the date of receipt of copy of this order.

Petition stands allowed.

October 11, 2022

(HARSIMRAN SINGH SETHI)

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JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No