

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

270, 288, 289 & 290

CWP-19124-2020

DR. SUDESH KUMAR MITTAL

..... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

..... Respondents

2.

MANINDERJIT SINGH

CWP-14192-2021

..... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

..... Respondents

3.

HANUMAN PRASAD KAYATH

CWP-14193-2021

..... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

..... Respondents

4.

NARESH KUMAR

CWP-14194-2021

Date of decision : 24.05.2022

..... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. Rakshit Gupta, Advocate
for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

Mr. Piyush Khanna, Advocate
for respondents No.2 and 3.

HARSIMRAN SINGH SETHI, J. (Oral)

By this common order, the petitions, the details of which have

been given above are being disposed of as all petitions involve the same question of law. For the purpose of the present order, the facts are being taken from CWP No. 19124-2020.

Reply on behalf of respondents No.2 to 5 filed in Court today and the same is taken on record.

The prayer in the present cases is that the claim of the petitioner for the release of the salary due, has been declined by the respondents by the impugned order dated 12.10.2020 (Annexure P-11) on the ground that the financial status of the University is not stable and these amounts will be released to the petitioner after getting reimbursement for the grant of post-matric scholarship which is due and which the university is about to receive.

Learned counsel for the petitioner argues that keeping in view the fact that the petitioners have worked, the petitioners are entitled for the release of their benefits and the same cannot be withheld by citing financial difficulty on the part of the University.

Upon notice of motion, the respondents have filed the reply and in the reply, the respondents have disputed the amount of payment being claimed by the petitioners. In the reply, the details of each petitioners has been given with regard to the salary, which is yet to be paid. In case of the petitioner-Sudesh Kumar Mittal, as per the respondents total due amount is 3,93,839/-. In case of Maninderjit Singh total due amount is 2,34,631/-. In case of Dr. Hanuman Prasad Kayath total due amount is 2,90,000/- and in case of Naresh Kumar total due amount is 1,36,301/-.

Learned counsel for the petitioners submits that though, the petitioners are entitled for the amount as being claimed but, the petitioners will be satisfied in case, the admitted amount is released by the respondents

forthwith.

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

It is not disputed that certain amounts, as noticed hereinbefore, are due to be paid to the petitioners by the respondents-University. The only ground which is being taken by the respondents for withholding the said amount is financial difficulty. The said ground, has already been considered by the Division Bench of this Court in **CWP No.14426 of 2003 titled as Ram Karan Vs. Managing Director, PRTC and another decided on 16.08.2005** and financial difficulty has been found to be non justifiable ground to withhold the monetary benefits of an employee. The relevant paragraph of **Ram Karan Vs. Managing Director, PRTC and another** is as under:-

*“A right to carry on business is reciprocated with a duty and constitutional obligations provided under the constitution. Financial stringency may not be a ground for not issuing requisite directions when a question of violation of fundamental rights arises. The Apex Court has also highlighted this aspect in a number of decisions, namely, **Municipal Council v. Ratlam, 1980(4) SCC 164; B.L. Wadhera v. Union of India, AIR 1996 SC 2969; All India Imam Organisation and others v. Union of India and other, 1993(3) SCT 531(SC) : 1993(3) SCC 584, Kapila Hingorani v. State of Bihar, 2003 (3) SCT 679 (SC) : 2003(3) RSJ 42.** As far back as in the year 1993, the Apex Court in All India Imam Organization's case (supra) observed as under:-*

“6. ... Much was argued on behalf of the Union and the Wakf Board that their financial position was not such that they can meet the obligations of paying the Imams as they are being paid in the State of Punjab. It was also urged that the number

of mosques is so large that it would entail heavy expenditure which the Boards on different States would not be able to bear. We do not find any correlation between the two. Financial difficulties of the institution cannot be above the fundamental right of a citizen. If the Boards have been entrusted with the responsibility of supervising and administering the Wakf then it is their duty to harness resources to pay those persons who perform the most important duty namely of leading community prayer in a moseque the very purpose for which it is created.”

Once, the amount is conceded by the respondents, the respondents are under obligation to pay the same. Let the conceded amount, be paid to the petitioner within a period of one month from the receipt of the certified copy of this order.

A photocopy of this order be placed on the connected case files numbered above.

(HARSIMRAN SINGH SETHI)
JUDGE

24.05.2022
rimpal

Whether speaking/reasoned	Yes
Whether Reportable :	No