

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CWP-7232-2018 (O&M)****Date of decision: 11.05.2022**

Rekha Singh

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vivek K. Thakur, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of certiorari to quash the charge-sheet dated 02.02.2018 (Annexure P-12). Further prayer has been made for issuance of a writ in the nature of mandamus directing the respondents to release the salary for the period of suspension from 08.12.2017 to 08.03.2018 along with arrears and interest.

2. Petitioner joined as 'Medical Officer' in the year 1992 in Health Department, Haryana and in few months is slated to superannuate. Vide letter dated 25.05.2009, Doctors and Specialists serving in District Mewat and Hathin Block of District Palwal were granted special incentive @ Rs. 10,000/- per month.

3. Learned counsel argues that petitioner had actually worked in Hathin Block of Palwal, therefore, she was entitled to special incentive. On receipt of a complaint, the petitioner was placed under suspension on the ground that she has committed financial impropriety by claiming special incentive for doctors working in Mewat including Hathin Block of District Palwal, being herself the DDO. Petitioner remained under suspension for a period of three months. On 02.02.2018, petitioner was issued a charge-sheet with regard to unauthorized withdrawal of Rs.1,60,000/- as difficult area incentive. Hence, the instant petition.

4. I have heard learned counsel for the parties and gone through the case file.

5. In the return filed to the writ petition, an unambiguous stand has been taken that a special incentive amounting to Rs.3,30,000/- was though approved in the case of the petitioner but the same was kept pending with National Health Mission, who is stated to be the competent authority as per the applicable policy for release of funds to be paid under the Special Incentive Scheme.

6. Position thus emerges is that department and/or National Health Mission owes an amount of Rs.3,30,000/- to the petitioner. While on the other hand, charge-sheet is qua recovery of much smaller amount of Rs.1,60,000/- which is stated to have been overdrawn by the petitioner during her posting as Senior Medical Officer, at Palwal.

7. Argument of the learned counsel for petitioner is that once she was also given additional charge at Hathin and acting as Drawing and Disbursement Officer (DDO) qua the said additional charge, she was entitled to the difficult area allowance. Hathin is concededly notified as difficult area by the State.

8. Be that as it may, on a Court query, learned counsel for the State under instructions from Dr. Brahmjit, CMO, Palwal does not dispute that four other Senior Medical Officers, who had also wrongly withdrawn incentive@ Rs.10,000/- per month as Difficult Area Allowance under some erroneous belief, have since returned the withdrawn amount and in view thereof, the department has dropped the contemplated adverse action including the charge-sheet.

9. In the premise, I am of the view, in case petitioner refunds the money, then she too would be entitled to parity along with her counter-parts against whom the charge-sheet has been dropped. Learned counsel for the petitioner under instructions of the petitioner, who is present in person, submits that she is willing to refund the aforesaid amount.

10. Accordingly, in the overall premise, it is directed that respondents shall expeditiously process the payment of Rs.3,30,000/- towards special incentive Scheme payable to the petitioner and shall also be at liberty to deduct the amount of Rs.1,60,000/- from the money payable to the petitioner. Alternatively, the amount of Rs.3,30,000/- shall be paid only when the petitioner furnishes a demand draft of Rs.1,60,000/- drawn in favour of the department. Respondents are directed to drop the charge-sheet qua the petitioner, after doing the needful within a period of 30 days from today.

11. Needless to say that the petitioner shall be entitled to all the benefits on parity with her other counter-parts against whom charge-sheet has been dropped, as aforesaid.

12. Disposed of accordingly.

11.05.2022
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No