

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

(218)

CWP-9213-2018

Date of Decision : March 09, 2022

Uday Pal Singh

.. Petitioner

Versus

State of Haryana and others

.. Respondents

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Chanderhas Yadav, Advocate, for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the prayer of the petitioner is that while deciding the representation filed by the petitioner seeking release of his pensionary benefits, the prayer of the petitioner for the grant of remaining 50% salary to the petitioner from 01.01.1996 to 11.05.1998 during which the petitioner remained under suspension, has not been taken care of. Furthermore, the petitioner is seeking for the quashing of order dated 21.07.2015 (Annexure P-7) wherein, it has been noticed by the Deputy Commissioner, Jhajjar that certain excess amount was given to the petitioner while making payment, which needs to be recovered.

Learned counsel for the petitioner argues that once the suspension of the petitioner was revoked, the petitioner becomes entitled for the grant of full salary for the period during which the petitioner remained on suspension and therefore, the petitioner is entitled for payment of 50% balance salary for the period from 01.01.1996 to 11.05.1998 i.e suspension period.

Learned State counsel submits that the Deputy Commissioner, Gurgaon has filed the reply wherein, it has been clarified that whatever the petitioner was found entitled for, he has already been paid. In the order passed by the respondent Deputy Commissioner, Jhajjar, it has been mentioned that appropriate order was passed after the suspension of the petitioner was revoked that the suspension period will be treated as a leave of kind due and that being so, the petitioner was not entitled for the salary for the said period.

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

Once, an appropriate order has already been passed by the authorities after revoking the suspension of the petitioner that the suspension period will be treated as leave of the kind due and the said order is not under challenge, no benefit of the salary, as being claimed by the petitioner in the present petition, can be extended to the petitioner. The petitioner is at liberty, even as of now, if in case he feels aggrieved against the order passed by the respondents treating his suspension period as a leave of the kind due to avail an appropriate remedy qua the same but till the order passed by the respondents authorities that the suspension period is to be treated as a leave of the kind due remains in operation, the prayer of the

petitioner, as raised in the present petition, cannot be entertained.

With regard to the prayer of the petitioner that while passing the order dated 21.07.2015 (Annexure P-7), Deputy Commissioner, Jhajjar has also directed the recovery of the excess amount paid to the petitioner, the same is not permissible without giving any due opportunity of hearing to the petitioner. In case, the respondents feel that any excess amount is to be recovered from the petitioner, the petitioner will be served due notice for the said purpose and keeping in view the reply filed coupled with the settled principle of law whether a recovery can be done from a class III employee or a retired employee, will be kept in mind.

Keeping in view the above, no interference is called for in the impugned order dated 21.07.2015 (Annexure P-7).

The present petition is accordingly dismissed with liberty as granted to the petitioner.

March 09, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No