

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

2023:PHHC:090071

CR-5886-2018

Date of decision: 18.07.2023

SI DIWAN SINGH

..Petitioner

Versus

STATE OF HARYANA & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ravinder Rana, Advocate
for Mr. Vivek Khatri, Advocate
for the petitioner.

Ms. Vibha Tewari, AAG, Haryana.

ANIL KSHETARPAL, J(Oral)

1. On 14.07.2023 after hearing the learned counsel representing the parties, the following order was passed:-

"1. The petitioner herein is the holder of decree of declaration. The operative part of the decree dated 03.01.2011 reads as under:-

"It is ordered that the suit of plaintiff is decreed with costs to the effect that adverse remarks recorded by the then Superintendent of Police, Sirsa, in the ACR for the period of 03.11.2002 to 31.03.2003 and for the period fo 04. 10.2003 to 04.03.2004 are wrong, against law and facts and are hereby expunged and the order No.5553/A1 dated 26.02.2007 conveyed to the plaintiff on 27.02.2007 vide which he was compulsorily retired from services is wrong, against law and facts and is hereby set aside and plaintiff is legally entitled to be reinstated in his services. As a consequential relief, the defendants are directed to give all the services benefits to the plaintiff deeming as if he was never removed from services and plaintiff is entitled to continue in service till the age of superannuation."

2. The appeal filed by the State of Haryana to challenge the aforesaid decree was dismissed on 22.03.2014. By filing an execution petition, the petitioner sought the following reliefs:-

"a. LTC for the block 2008-2011 amounting Rs.12,640/-
b. HRA for the period 1.3.2007 to 31.12.2013 amounting to approximately Rs.2,00,000/-
c. Additional salary for the period w.e.f. 2007 to 2013 amounting to approximately Rs.2,00,000/-
d. Refund of the interest amounting to Rs.1,60,000/- which has been deducted by the J.D. on the amount of release of gratuity.
e. Refund of Rs.36,917/- which has been deducted by S.P ., Hisar from the commutation pension of the D.H.
f. Interest at the rate of 18% per annum from the delayed payment of retirement benefits of the D.H. as the appeal of the J.D. Has been dismissed on 22.03.2014 but the retirement benefits have been released on 16.10.2015. As such the D.H is entitled to get the interest @ 18% per annum from due date till the date of payment."

3. *The dispute in the present revision petition is confined to the relief claimed under Clauses 'b' and 'c' which have already been extracted.*

4. *The Executing Court has refused to grant relief to the petitioner under clauses 'b' and 'c'. This revision petition has been filed to assail its correctness.*

5. *This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.*

6. *The learned counsel representing the petitioner contends that for working during gazetted holidays the police officials are entitled to the additional salary which on parity is required to be paid to the petitioner. He submits that if the petitioner would have been permitted to remain in job, he would have earned this amount.*

7. *This court has considered the submissions.*

8. *The amount claimed is towards the additional salary for working during the gazetted holidays. It is obvious that a police official is entitled to additional salary only if he works during gazetted holidays. Hence, the payment of additional salary is directly dependent upon the working of the police official during such holidays. If the police official does not work during those holidays, he shall not be entitled to additional salary. Hence, the payment of the amount is directly and solely dependent upon the working of the police official during such holidays. The petitioner has admittedly not worked during those holidays, as a result he is not entitled to the*

payment of additional salary. Hence the order passed by the Executing Court to this extent does not require interference.

9. The learned counsel representing the petitioner submits that the police officials posted in the police headquarter are entitled to either government accommodation or house rent allowance in lieu of government accommodation. He submits that the petitioner would have applied for the allotment of government accommodation or payment of house rent allowance in lieu thereof if the petitioner was in service. He submits that the petitioner could not be deprived of house rent allowance particularly when he has been ordered to be reinstated with consequential benefits.

10. The learned State counsel prays for a short accommodation to get the complete instructions before assisting the court.

11. Adjourned to 18.07.2023.

12. To be listed in the urgent list.”

2. The learned counsel representing the State of Haryana while referring to Rule 3.20 and 3.21, Chapter III, Volume I of the Punjab Police Rules, 1934, submits that the petitioner did not follow the procedure prescribed for allotment of quarter or grant of house rent allowance in lieu of quarter. She submits that in absence of an application to the competent authority, the petitioner cannot be paid the house rent allowance.

3. It is evident that the petitioner was compulsorily retired from 27.02.2007. In a civil suit, the order of compulsory retirement against the petitioner was declared illegal. In such circumstances, the petitioner was not entitled to apply for the allotment of quarter or house rent allowance in lieu thereof on 01.03.2007. The petitioner was ordered to be reinstated in the service. It has also been ordered that the petitioner shall be entitled to all the service benefits on the premise as if he was never removed from the service.

4. Keeping in view the aforesaid facts, it would not be appropriate to deny the house rent allowance to the petitioner particularly when he was kept out of service on account of illegal order which has already been declared void.

5. Hence, the revision petition is partly allowed.

6. The order passed by the Executing Court to a limited extent of denial of house rent allowance with effect from 01.03.2007 till 31.12.2013 is set aside. The respondent-State is directed to pay the amount after calculation in accordance with the rules or relevant instructions. If the State fails to pay the amount, the petitioner shall be entitled to file an application for revival of execution.

7. All the pending miscellaneous applications, if any, are also disposed of.

July 18th, 2023

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**(ANIL KSHETARPAL)
JUDGE**

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