

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(287)

CWP No. 5914 of 2021 (O&M)

Date of Decision : 14.12.2023

Vijay Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.K. Verma, Advocate for the petitioner.

Mr. Tapan Kumar Yadav, Deputy Advocate General,
Haryana.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that initially the petitioner had asked for permission to undergo a Post Graduate Course being an in-service doctor for which the permission was not granted by the Department and the petitioner had filed a writ petition being CWP No. 7585 of 2020 seeking a direction that the petitioner be allowed to join the Post Graduate Course as an in-service doctor and respondent-department be directed to grant 'No Objection Certificate'.

2. Learned counsel for the petitioner submits that initially by an interim order, the respondents were directed by this Court to give the provisional No Objection to the petitioner under which Provisional No

Objection, the petitioner had joined the Post Graduate Course but thereafter, the writ petition was dismissed by the Coordinate Bench of this Court on 30.09.2020 (Annexure P-6). Learned counsel for the petitioner further submits that the order passed by the learned Single Judge was assailed in LPA No.748 of 2020 and the said LPA was disposed of with the direction to the Department to conclude the departmental proceedings and the issuance of the No Objection will depend upon the outcome of the said departmental proceedings.

3. Learned counsel for the petitioner further submits that thereafter the petitioner joined back the Department for discharging the duties and is discharging the duties continuously but even for the period when the petitioner has actually discharged the duties with the Department, no salary is being paid to him and that too without any valid justification.

4. Learned counsel for the respondents on instructions from Dinesh Kumar, Superintendent O/o Director, General Health Services, Haryana, Panchkula, submits that as there were certain disputes pending with regard to the absence of the petitioner on earlier occasions and thereafter joining the Post Graduate Course under the interim order of the Court, the department was confused as to how the salary is to be paid to the petitioner upon rejoining the department but submits that for the period the petitioner has actually discharged the duties with the Department, the salary if not already paid, will be released to the petitioner within a period of next 15 days.

5. Learned counsel for the petitioner submits that the respondents had retained the amount of the salary for the period when the petitioner actually discharged the duties after completing the Post Graduate Course hence, the salary needs to be released along with interest.

6. Nothing has come on record with regard to a valid justification for not giving the salary to an employee, who has discharged the duties of the post in question. The respondents were under an obligation to release the salary to the petitioner for the period when there was no dispute so that the employee can survive.

7. As per the judgment of the Coordinate Bench of this Court in *J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*, any amount belonging to an employee if retained and used by the Department, the employee will also be entitled for interest. Hence for the period when the petitioner actually discharged the duties after completing the Course, the salary be released to him within a period of 15 days as undertaken by the learned State counsel and the said amount will also carry interest @ 6% per annum from the date it became due till the actual payment of the same.

8. Learned counsel for the petitioner submits that with regard to the salary of the earlier period when the petitioner had undergone the Course, the petitioner be granted liberty to agitate the same before the authorities concerned so as to get post graduate stipend.

9. Learned counsel for the respondents submits that in case any representation is received from the petitioner qua the Post Graduate stipend, appropriate decision will be taken by the concerned authority and appropriate order will be passed within a period of eight weeks of the receipt of any such representation from the petitioner.

10. The present writ petition is disposed of in above terms.

Any other application, if pending, be also disposed of.

December 14th, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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