

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(264)

CWP No. 18769 of 2022  
Date of Decision : 05.09.2023

Dr. Udaideep Khungar

...Petitioner

Versus

State of Haryana and others

...Respondents

***CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI***

Present: Mr. B.S. Mittal, Advocate for the petitioner.

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

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**Harsimran Singh Sethi J. (Oral)**

Learned counsel for the petitioner argues that the respondents are forcing the petitioner to appear before the medical board for undergoing Psychological test, which direction of the respondents is impermissible and the petitioner is not being allowed to join the duties without undergoing the said test. Learned counsel for the petitioner further argues that the petitioner has also not been paid the salary for which he is entitled for as he was restrained from discharging the duties by the department.

Learned counsel for the respondents submits that though the petitioner was directed to undergo a medical test and submit the report but the said direction was given by interpreting the order passed by this

Court in CWP No. 7806 of 2020 dated 09.11.2021. Learned State counsel submits that as per the instructions received from Dr. Dharmender Sandhu, SMO, department is not enforcing the directions for a medical test keeping in view the order passed by the Co-ordinate Bench of this Court dated 12.09.2022, clarifying the earlier order dated 09.11.2021 passed in CWP No. 7806 of 2020. Learned State counsel further submits that the petitioner has never been restrained from attending the duties and is free to join as and when he wants as there is no hindrance created by the department at any given point of time for the said purpose. Learned counsel for the respondents further submits that with regard to the claim of the petitioner for non-payment of salary, the petitioner has not worked but in case, he gives valid justification for not attending the duties, the same will be considered and an appropriate order will be passed on the said claim. Learned counsel for the respondents further submits that various acts have been attributed to the petitioner, which acts are already under process as of now.

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

Keeping in view the instructions received from Dr. Dhamender Sandhu, SMO, learned State counsel submits that directions given to the petitioner for undergoing the medical test will not be enforced, hence, grievance of the petitioner on the said aspect no longer exists to be decided by this Court.

Further, as per the respondents, the petitioner has never been restrained from attending the duties, hence the said dispute can be resolved by directing the petitioner to join the duties at the place, where he was last posted. In case, the petitioner come present to join the duty by 9.00 a.m. on 11.09.2023 at the place of his last posting, the petitioner will be allowed to join the duties and the respondents will not insist the petitioner to produce his medical report.

However, the said joining of the duties will be without any prejudice to the respondents to initiate any disciplinary proceeding against the petitioner in case, department is of the view that petitioner had misconducted himself in any manner. This Court is not opining upon any misconduct on the part of the petitioner at this stage, as the respondents are yet to allege the allegations and to issue a charge-sheet.

Further, with regard to the claim of the petitioner for the grant of salary, in case the petitioner has any grievance qua the same, he is given liberty to file an appropriate representation with the respondents claiming the same and in case, any such representation is filed, the same be decided by the competent authority by passing an appropriate speaking order within a period of eight weeks of the receipt of any such representation.

Petition is disposed of in above terms.

**September 05, 2023**  
*kanchan*

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

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