

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 118

CWP-13231-2023

Date of decision : 20.07.2023

Rakesh Kumar

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Aman Pal, Advocate, for the petitioner.

Mr.Saurabh Mohunta, DAG, Haryana.

DEEPAK SIBAL, J. (ORAL)

1. While the petitioner was posted as Deputy Superintendent of Central Jail, Ambala an inmate-Vijaypal committed suicide. The Judicial Magistrate Ist Class, Kaithal (for short, the Magistrate) inquired into Vijaypal's death and through his report dated 12.08.2022 came to the conclusion that Vijaypal's suicide was on account of the ill-treatment by the petitioner and some other jail officials. On the basis of such report an FIR was lodged against the petitioner and other jail officials under Section 306 IPC which remains pending. In the meanwhile, the State took a decision to compensate the next of kin of Vijaypal by awarding them Rs.5 lakhs and such amount was ordered to be recovered from the petitioner's salary.

2. The instant petition had been filed to challenge therein the preliminary inquiry dated 22.11.2021, final report dated 12.08.2022 and recovery of the aforesaid compensation of Rs.5 lakhs from the petitioner's salary. However, when the matter came up for hearing before this Court, learned counsel appearing for the petitioner submitted that at this stage he restricts his claim only to the challenge made to the orders dated 06.04.2023 and 26.04.2023

(Annexures P-13 and P-14 respectively) through which the State has decided to

recover from the petitioner the amount of compensation which it has decided to grant to the next of kin of the deceased inmate.

3. Learned counsel for the petitioner contends that neither in the preliminary inquiry nor in the final inquiry conducted by the Magistrate was the petitioner ever associated and that even before the State decided to award compensation to the next of kin of Vijay Pal as also to recover such amount from the petitioner he was not given any notice whatsoever.

4. Learned State counsel seeks to justify the action of the State but fairly admits that before ordering recovery from the petitioner's salary the amount awarded as compensation to Vijaypal's next of kin no notice or opportunity of any kind has been granted to the petitioner.

5. Learned counsel for the parties have been heard and with their able assistance the record of the case has also been perused.

6. On the death of an inmate in a jail of which the petitioner was the Deputy Superintendent, the State has decided to compensate the deceased's next of kin. The compensation has been ordered to be recovered from the petitioner's salary. Such action is based on a preliminary and a fact-finding report given by a Magistrate. It is the admitted position that in the preliminary inquiry and the fact-finding inquiry the petitioner was not associated. It is further not denied that before seeking to recover the compensation awarded to the deceased inmate's next of kin the petitioner has also not been put to any notice.

7. In the light of the above, the action of the State to recover the awarded compensation from the petitioner is violative of the principles of natural justice and therefore, unsustainable. Resultantly, the impugned orders dated 06.04.2023 and 26.04.2023 (Annexures P-13 and P-14 respectively) are quashed.

8. It is made clear that the instant order shall not bar the State from

proceeding to make recovery from the petitioner but only after following the principles of natural justice, in accordance with law.

9. Disposed of.

20.07.2023
shamsher

[DEEPAK SIBAL]
JUDGE

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