

CWP-24311-2016

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2023:PHHC:166981

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

CWP-24311-2016

Date of decision : 29.11.2023

Raj Masih

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. G.P.S.Bal, Advocate and
Mr. Vijay Kumar, Advocate
for the petitioner.

Mr. T.P.S.Walia, AAG, Punjab.

Mr. Saurabh Garg, Advocate
for respondent No.2.

DEEPAK MANCHANDA, J.(Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 29.10.2014 (Annexure P-14) i.e. point-wise reply/Information supplied by Public Information Officer, Punjab Tourism Development Corporation Limited, at Chandigarh, as sought by petitioner vide letter/application dated 25.08.2014 under Right to Information (RTI) Act, 2005. Further, petitioner also seeks release of the handicapped allowance as it has been alleged that an amount of Rs. 8616/- has been illegally claimed by the respondents from him, on account of refund on the pretext of "excess amount paid".

2. Learned counsel for the petitioner argues that the case of the petitioner is for release of the handicapped allowance and further, the refund of the deduction(s), which were made from the pensionary benefits and petitioner is suffering prejudice, his writ petition may kindly be allowed, as prayed for.

3. Learned State counsel while referring to short reply by way of Affidavit of Shivdular Singh Dhillon, Special Secretary to Government of Punjab, Department of Tourism and Cultural Affairs apprises this Court that petitioner was an employee of the Punjab Tourism Development Corporation (respondent No.2) and order of retirement was issued by said department and not by the Government of Punjab. He further submits that respondent No.2 has already filed its reply and petitioner being employee of the Corporation had no direct connection with the State

4. Learned counsel appearing for respondent Nos. 2 on the basis of reply dated 05.04.2017 raised preliminary objections and opposes the writ petition being an abuse of the process of the Court. It has been submitted that petitioner having been pre-maturely retired w.e.f. 31.08.2004, filed CWP No.14206 of 2004 along with three other employees who were also pre-maturely retired. The petitioner (who was petitioner no.4 in the said petition) settled his dispute with the answering respondent-Corporation and received payment and accordingly, vide order dated 21.11.2013 (Annexure P-17) petition qua the petitioner (Raj Masih) was dismissed as satisfied. The order dated 21.11.2013 reads as under :-

“Mr. Kshetarpal in all fairness states that the matter regarding petitioner No.4-Raj Masih has also been settled. A cheque in this regard has been handed over to the learned counsel representing the petitioners in Court today.

Having regard to the aforesaid, petition qua petitioner No.4-Raj Masih is dismissed as satisfied.

Since the issue of settlement regarding petitioner No.1-V.P.Sharma is also under process, the matter is adjourned to 12.12.2013.”

5. I have heard the learned counsel for the parties and have gone through the case file.

6. It is an admitted fact that earlier also petitioner filed CWP No. 14208 of 2004 and as the dispute qua the petitioner was settled with the respondent-Corporation, the said writ petition was dismissed as satisfied qua the petitioner vide order dated 21.11.2013. Moreover, there is no rebuttal to the stand taken by the respondents vide their replies.

7. In the present writ petition, the petitioner assails the order dated 29.10.2014 (Annexure P-14) i.e. point-wise reply/Information to the RTI application supplied by the Public Information Officer and seeks a writ in the nature of Certiorari. Besides this, the petitioner is also seeking a writ of Mandamus to release all such requisite legitimate dues i.e. handicapped allowance, certain amount pertaining to release of gratuity etc., release of medical reimbursement bill of the petitioner, his wife and son etc. However, this Court is of the view that the order dated 29.10.2014 which is merely an information/reply to the RTI application supplied by the Public Information Officer that too when the Public Information Officer is not arrayed as a party respondent, is not assailable and as such no writ of Certiorari can be issued against the order dated 29.10.2014. As far as the prayer of the petitioner seeking writ in the nature of mandamus is concerned, since in the earlier round of litigation i.e. by way of CWP No. 14206 of 2004 the matter regarding petitioner-Raj Masih had been settled and petitioner received payment thereof, the present writ petition being second writ petition is of no avail and this Court

is not inclined to accept the prayer made in the writ petition being misconceived.

8. Accordingly, the present writ petition being devoid of any merit is dismissed. The order dated 28.11.2016, whereby recovery was ordered to be stayed, stands vacated.

(DEEPAK MANCHANDA)
JUDGE

29.11.2023
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No