

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

(104)

**CM-15728-CWP-2023 in/and
CWP-21238-2017
Date of Decision : 02.11.2023**

Raghubir Singh and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. M.S. Randhawa, Advocate for the petitioners.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM-15728-CWP-2023

Present application has been filed for allowing the applicants as petitioner Nos. 53 to 64 in the present writ petition.

Notice of the application to counsel for the respondents.

Mr. Pankaj Middha, learned Additional Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondent-State and raises no objection for the grant of prayer as made in the present application.

Keeping in view the above, the present application is allowed and applicants are impleaded as petitioners No. 53 to 64 in the writ petition. Amended memo of parties is taken on record.

Learned counsel for the parties submit that keeping in view the fact that the pleadings are complete, the hearing of the main case be preponed to today.

Keeping in view the joint request, the main case is taken up for hearing today.

CWP-21238-2017

1. The grievance of the petitioners in the present writ petition is that they have not been paid the salary for the period they have worked, which amount has been sent by the Union of India to the State Government.

2. After the filing of the writ petition, the respondents have filed the reply, wherein, the respondents have stated that all the amount for which the petitioners were entitled, have already been given to them. It has been further mentioned that in an earlier litigation, which had gone upto the Hon'ble Supreme Court of India, with regard to the claim of salary, the petitioners were directed to approach the Civil Court, whereas the present petition has been filed by the petitioners.

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

4. In the present petition, the petitioners are claiming salary for discharging the duties with the respondent-State of Haryana. It is a conceded position that in an earlier litigation, the Hon'ble Supreme Court of India had passed an order on 24.07.2007, which reads as under :-

“Keeping in view the fact that the Health Scheme sponsored by the Central Government has been discontinued by the State Government, hence no directions can be issued

to the respondents to re-employ the petitioners against the said scheme. As far as any arrears of pay are concerned, the petitioners may seek their remedy by filing a civil suit, if permissible under the law.

Accordingly, the writ petition is disposed of.”

5. A bare perusal of the same would show that with regard to the arrears of pay, the petitioners were directed to seek their remedy by filing a civil suit, if permissible under the law. Rather than availing the said remedy, the present petition has been filed and that too involving a disputed question of fact as the stand taken by the respondents is that whatever amount the petitioners were entitled for, have already been released in their favour. Keeping in view the said fact, the present petition involves the disputed question of facts.

6. It is a settled principle of law settled by the Hon’ble Supreme Court of India in ***Civil Appeal No.2848 of 2021 titled as Shubhas Jain vs. Rajeshwari Shivam and others, decided on 20.07.2021*** that the High Court does not have the jurisdiction to decide the disputed question of facts. As per the settled principle of law settled by the Hon’ble Spureme Court of India, the disputed facts are to be decided before the Civil Court and the High Court does not have the jurisdiction to decide the same. The relevant paragraph of the said judgment is as under:-

“26. It is well settled that the High Court exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India, does not adjudicate hotly disputed questions of facts. It is not for the High Court to make a comparative assessment of conflicting technical reports and decide which one is acceptable.”

7. In the present case, the disputed question of facts arise as the petitioners are claiming the salary for the period they have worked but the respondents have stated in their reply that whatever amount the petitioners were entitled for, have already been released in their favour, hence, appropriate remedy before the petitioners is to prove the said fact before the Civil Court in case, they intend to get the disputed question of fact resolved.

8. The present petition is dismissed as the same is not maintainable before the High Court involving the disputed question of fact.

November 2nd, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No