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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-3351-2024
Date of Decision: 07.08.2024

Sudhir Singh Petitioner
Versus

Haryana Power Generation Corporation (HPGC) Ltd. and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. J.K Goel Advocate for the petitioner.
Mr. Samarth Sagar, Advocate for the respondents.

JASGURPREET SINGH PURI, 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 impugned order dated 13.12.2023 (Annexure P-1) passed by respondent No.3 being illegal, arbitrary and against the law and further the issuance of writ in the nature of *mandamus* directing the respondent to refund the amount as deducted by the respondent from the salary of the petitioner along with interest @18% per annum.
2. Learned counsel for the petitioner submitted that it is a case where the petitioner is working as Pharmacist in the respondent-Corporation and he was issued a show-cause notice dated 13.12.2023 vide Annexure P-1 wherein it has been so stated that he was wrongly given increment w.e.f. 01.07.2011 to 30.11.2023 and a time of 10 days was given to him to reply to the aforesaid show-cause notice as to why the amount be not deducted from his salary. While referring to the aforesaid Annexure P-1, he submitted that

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the aforesaid show-cause notice was received by the petitioner on 03.01.2024, but even before the receipt of the aforesaid show-cause notice, the respondent-Corporation had started recovering the amount which is clear from Annexure P-2 by which an amount has been deducted from his salary. He further submitted that although he had replied to the show-cause notice vide Annexure P-3 but that was only a futile exercise as the show-cause notice has not been decided till date because they already started recovering the amount even prior to receipt of the show-cause notice by the petitioner and rather after specifically stating that 10 days' time will be given to him. He further submitted that the entire exercise of the respondent is absolutely illegal and perverse in nature. He also submitted that the rights of the petitioner has been infringed by the respondents in such an irresponsible and illegal manner.

3. On the other hand, Mr. Samarth Sagar, learned counsel for the respondents submitted that so far as the aforesaid factual position is concerned, it is correct that before even receipt of the show-cause notice by the petitioner, the recovery was started to be effected and it is also correct that till date no order has been passed on the show-cause notice.

4. I have heard the learned counsels for the parties.

5. Annexure P-1 is a show-cause notice issued by the respondents by which 10 days' time was given to the petitioner to respond to the aforesaid show-cause notice and the aforesaid show-cause was received by the petitioner on 03.01.2024 which is clear from the receipt date at Annexure P-1 and admittedly even before the receipt of the aforesaid show-cause notice (Annexure P-1), the respondents started recovering the amount from



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the salary of the petitioner. It is also an admitted position that no order on the aforesaid show-cause notice has been passed till date.

6. On a query being raised to the learned counsel for the respondents as to whether for the purpose of effecting recovery, any order has been passed with regard to withdrawal of the increments or not to which he stated that no such order has been passed.

7. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned show-cause notice dated 13.12.2023 (Annexure P-1) is hereby set aside. Any recovery effected from the petitioner shall be refunded to him along with interest @6% per annum (simple) from the date of recovery till the date of its actual payment within a period of 3 months from today.

8. Liberty is granted to the respondents to proceed in accordance with law in case they so desire for the purpose of considering withdrawing the increments or for the purpose of recovery.

9. Since the facts of the case suggest that it was an *ex facie* case of irresponsible and illegal exercise of powers, wherein the petitioner was constrained to file a petition before this Court, he is also entitled for costs which are assessed as Rs.25,000/- (Rupees Twenty Five Thousand only), which shall also be paid to the petitioner within a period of 3 months from today.

07.08.2024

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |