

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(217)

CWP No. 18417 of 2019

Date of Decision : 20.02.2024

Saurabh Deswal

...Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vivek Suri, Advocate for the petitioner.

Mr. Harish Rathee, Senior Deputy Advocate General,
Haryana.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance of the petitioner is that a sum of ₹1,43,485/- is being recovered from him in lieu of the salary for the period 13.06.2013 to 31.07.2013, which is arbitrary and illegal.

2. Learned counsel for the petitioner submits that the petitioner remained medically ill and suffered from tuberculosis of Hip Joint and he remained under treatment from 14.02.2013 till 25.04.2016 and thereafter, petitioner joined the duties. Learned counsel further submits that the period for which the petitioner did not perform the duties from 14.02.2013 till 25.04.2016 was directed to be treated as a leave of the kind due and now, the respondents have passed an order stating that as there was no leave admissible in the account of the petitioner and he has already been paid full salary for the said period inadvertently, a sum of

₹1,43,485/- is liable to be recovered from him, which is totally arbitrary and illegal.

3. Learned counsel for the respondents, on the other hand, submits that the action is being taken by the department only on the basis of the order passed by the Chief Secretary, wherein, the period for which the petitioner did not discharge the duties i.e. 14.02.2013 till 25.04.2016 will be treated as a leave of the kind due and as the petitioner had already been paid full salary for the said period inadvertently, now keeping in view the availability of different kinds of leave in the account of the petitioner, the respondent-department has come to the conclusion that the petitioner has been paid an excess amount of ₹1,43,485/-, which is liable to be recovered.

4. At this stage, learned counsel for the petitioner submits that leave account of the petitioner has not been rightly checked and as per the Rules of the year 2016, there is a half pay leave admissible to the petitioner, which was lying in the account of the petitioner which fact has been overloaded hence, the respondents are liable to be directed to recalculate the liability of the petitioner qua the refund of ₹1,43,485/-.

5. Learned counsel for the respondents submits that in case petitioner raises any grievance with regard to the incorrect calculation of the leave admissible to the petitioner in his account, the same will be given due consideration and appropriate order will be passed within a period of eight weeks and in case, the claim of the petitioner is found justifiable under the rules, appropriate relief will be given otherwise, due

reasons will be mentioned in the speaking order for the information and necessary action of the petitioner.

6. Learned counsel for the petitioner submits that as recovery of ₹1,43,485/- was stayed by this Court while issuing notice of motion, no recovery be done till passing of the fresh order passed by the respondents.

7. Learned counsel for the respondents submits that recovery of the excess amount paid, if found, liable to be recovered from the petitioner keeping in view the fresh order to be passed, the same will be implemented and till the fresh order is passed, no recovery will be done from the petitioner.

8. Learned counsel for the petitioner further submits that the salary for a period of eight months, after being declared fit has not been paid by the respondents that be also considered while passing appropriate speaking order.

9. Learned counsel for the respondents submits that in case the said grievance is also raised in the representation, the same will also be considered in accordance with law.

10. Learned counsel for the petitioner submits that in view of the statement of learned State counsel, the present petition may kindly be disposed of having been not pressed any further with liberty as prayed for.

11. Ordered accordingly.

February 20th, 2024
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

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