

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-29932-2018 (O&M)
Date of Decision : 15.02.2024

Dr. H.M.Bhardwaj

....Petitioner

VERSUS

State of Haryana and Another

....Respondents

**CORAM : HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Nikhil Lather, Advocate for
Mr. Anurag Goyal, Advocate for the petitioner.

Ms. Shruti Jain Goyal, DAG Haryana.

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. Learned counsel for the petitioner has relied upon the judgment passed by the Hon'ble Apex Court in **G.L.Batra Vs. State of Haryana and Others** [(2014) 13 SCC 759] to submit that the question with regard to granting of full pay with allowances to a Member of the Commission is no more *res-integra*. He submits that the petitioner had earlier been working as a Deputy Director in the Department of Animal Husbandry & Dairying. However, he was selected for a Constitutional post as Member, Haryana Staff Selection Commission by the Government of Haryana and in terms thereof, he was also required to be paid a salary qua the said post. It is submitted that the salary could not have been deducted with reference to

pension already been drawn by the petitioner rather it would be independent thereto.

2. Learned State counsel has relied upon judgment passed by the Division Bench of this Court on 13.08.2018 in the case of **Budh Dev Yadav Vs. State of Haryana (CWP-9187-2016)** wherein it has been held that the payment to be made to the President of a District Consumer Forum would be after deduction of the pension amount.

3. We have considered the submissions made by learned counsel for the parties. A close look shunted to the judgment passed by the Hon'ble Supreme Court in **G.L.Batra (supra)** reflects that therein the appellant was appointed as Chairman of the Haryana Public Service Commission. The post of the State Staff Service Commission as well as the Public Service Commission would fall in terms of Article 320 of the Constitution of India and, therefore, the remuneration for the said post would have to be fixed independently and the pension or salary which a person may be drawing as a Government Servant would have nothing to do with the remuneration which a person would receive while being a Member of the Staff Selection Commission or the Public Service Commission. The Apex Court in view thereof held that the remuneration be available as per the post held by as a "personal measure to him" and accordingly the judgment passed by the High Court directing for making remuneration minus the pension, was held to be unjustified.

4. The judgment passed in **Budh Dev Yadav (supra)** would therefore, not apply to the facts of the present case where the petitioner is appointed as Member of the Staff Selection Commission while as a President of the District Consumer Forum, the concerned petitioner – Budh Dev Yadav, was to receive the salary/honorarium minus the pension.
5. In view of the above, the claim of the petitioner is found to be sustainable in law and accordingly, the writ petition is allowed. The respondents are directed to release full remuneration to the petitioner without including the pension or retiral benefits. The consequential benefits shall also be granted to the petitioner.
6. Allowed. No orders as to costs.
7. Pending applications, if any, also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

February 15, 2024
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(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No