

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

CWP-7936-2025 (O&M)

Date of Decision : 25-03-2025

.....Petitioner

PRESIDING OFFICER INDUSTRIAL TRIBUNAL AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ankur Pandey, Advocate and
Mr. Manuj Nagrath, Advocate
for the petitioner.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is qua the order passed by the Tribunal dated 22.11.2024 (Annexure P-5) by which, the claim of the petitioner for the grant of salary admissible to him for certain period, has been declined.
2. Learned counsel for the petitioner argues that the salary of the petitioner which was due to him has been declined by the respondent-Pharmaceutical on the ground that the petitioner was transferred, which transfer was not accepted by the petitioner and the petitioner did not join the transferred place hence, by adopting “**No Work No Pay**” Rule, the petitioner has been declined the benefit of salary, which is incorrect.
3. Learned counsel for the petitioner argues that once the petitioner remained in the employment of the respondent-Department, the

petitioner was required to be paid his salary for the period he remained in employment with the respondent irrespective of the fact whether, the petitioner accepted the transfer order passed by the respondent-Pharmaceutical or not, which transfer order was in fact a punishment imposed upon the petitioner.

4. On being asked whether, the order of transfer was ever impugned, learned counsel for the petitioner submits that the same was impugned but there was no interim order so as to impose a stay on the transfer order.

5. Further, learned counsel for the petitioner was asked whether once, the operation of the transfer order was not stayed, whether the petitioner joined at the transferred place, learned counsel for the petitioner fairly concedes that the petitioner never joined in pursuance to the transfer order.

6. I have heard learned counsel for the petitioner and have gone the records of the present case with his able assistance.

7. The claim of the petitioner is that once the petitioner remained in employment with the respondent-Pharmaceutical, he was entitled for the grant of salary for the said period irrespective of the fact that whether the petitioner was performing the duties assigned to him/her or not. The said argument cannot be accepted in case, an employee does not perform the duties assigned to him/her as required by the employer by not accepting the orders which were passed in the service career, the employee cannot claim the salary merely on the ground that the master and servant relationship continues between him/her and the employer.

8. As per “**No Work No Pay**” Rule, in case, an employee does not perform the duties assigned to him/her even while being in employment, he/she can be denied the salary for the period he refused or did not perform the duties as required as per the Service Contract.

9. In the present case, it is a conceded fact that the petitioner was ordered to be transferred by the respondent-Pharmaceutical and the petitioner did not accept the said transfer order and did not join the transferred post. Once, the said fact has been conceded before this Court, merely because the petitioner remained in employment would not suffice for him to avail the benefit of grant of salary for the post in question which has rightly been declined by the Tribunal via order dated 22.11.2024 (Annexure P-5) especially when the petitioner was not discharging the duties on a transferred place.

10. As far as the argument of the petitioner that the order of transfer was in fact a punishment and the same cannot be taken into account while deciding the claim of the petitioner for the claim of salary, it may be noticed that it has already been conceded by the learned counsel for the petitioner that despite challenge to the transfer order, the same was not stayed hence, the petitioner was under obligation to comply with the said transfer order. Till the transfer order remains in power and the petitioner has not discharged the duties at the transferred place, the petitioner cannot claim the salary for the period as he did not discharge the duties of the post. Hence, the claim of the petitioner that he is entitled for the salary without discharging the duties of the post, cannot be accepted and the Labour Court has rightly declined the said prayer of the petitioner.

11. Further, the award dated 22.11.2024 (Annexure P-5) of the Labour Court can only be interfered in case, the same is found to be perverse to the facts and evidences, which have come on record. In the facts and circumstances of the present case, the petitioner has not been able to prove the same hence, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

12. Hence, the present petition stands dismissed in limine.

13. Pending application, if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

25-03-2025
Sapna Goyal

NOTE: Whether speaking: YES
Whether reportable: NO