

2025:PHHC:090376



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

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CWP-20121-2021

Date of Decision: 22.07.2025

AMIT PHOGAT AND ANOTHER

... Petitioners

VERSUS

STATE OF HARYANA & ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Jasbir Mor, Advocate
for the petitioners.

Mr. Rahul Dev, Addl. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer made in the present writ petition is for grant of salary for the break period, on account of re-allocation of the departments, to the petitioners, who were initially appointed on Group-D posts. While petitioner No.1 was re-allocated the Department of PWD (B&R), the petitioner No.2 was re-allocated the Department of ESI Health Care, Haryana.

A written statement had been filed by the Superintending Engineer, Horticulture Circle, PWD (B&R) on behalf of respondents No.3 and 5, wherein the stand taken by them is as under:

“c. That from the date of joining i.e. 12.11.2020, the department is paying salary on monthly basis along with the allowances and other benefits as per the provisional appointment and nothing is due towards with answering department and the petitioner No.1 Sh. Amit Phogat accepted the benefits without any objection and

not raised any objection to department regarding his previous dues. However, if any previous salary or other dues is pending prior to 12-11-2020 of petitioner, then answering department has no concern with the same and the department is not liable to pay anything to petitioner as before 12.11.2020, the petitioner was not our employee.”

The Counsel for the petitioner contends that insofar as the petitioner No.2 is concerned, the salary for the break period already stands paid to him. It is pointed out that the administrative department has refused to discharge liability for the break period. He, however, refers to the reply filed on behalf of respondent No.1- Chief Secretary, Government of Haryana in the General Administration Department, General Services Branch, Civil Secretariat, Chandigarh. The operative part thereof reads thus:

*“5. That with regard to the salary of the gap period of Sh. Navdeep, Peon (Petitioner No.2) a letter dated 11.05.2024 (**Annexure R-1**) was issued to the Director, ESI Health Care, Haryana with the advise that the salary of gap period from 12.12.2019 to 11.11.2020 is to be paid by the Department in which Shri Navdeep, peon joined after gap period. Similarly the salary of the gap period of Sh. Amit Phogat (Petitioner No.1) will be paid by the Department in which Shri Amit Phogat joined after the gap period.”*

Since the respondent No.1 has filed an affidavit specifically to the effect that the salaries of the petitioners, for the gap/break period, is to be paid by the department in which he is currently working and a letter in this regard has already been written to the Authority concerned, hence, the stand of the respondent- Department of PWD (B&R) that it has no liability to pay the salary for the break period prior to 12.11.2020 is thus contrary to the reply filed by the

State Government. The stand as taken by the State Government has to be given precedence over and above the reply filed by the respondent-Department of PWD (B&R). Furthermore, the Department of ESI (Healthcare) has already granted the salary to petitioner No.2, which clearly shows that the aforesaid directions, as given by the State Government, are required to be adhered to.

The present writ petition *qua* petitioner No.1 is thus allowed and the respondent-Department of PWD (B&R), Horticulture Circle is directed to release the entire dues to petitioner No.1 on account of his salary for the gap period in terms of the affidavit filed by respondent No.1. The petition *qua* petitioner No.2 is, however, disposed of as having been rendered infructuous.

JULY 22, 2025.

Rajender

**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No