
(2010) 10 SHI CK 0256
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 4187 of 2008

Banarsi Dass

APPELLANT

Vs

Director Sainik Welfare Department and Others

RESPONDENT

Date of Decision : 26-10-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2010) 10 SHI CK 0256

Hon'ble Judges : Kurian Joseph, C.J.;Kuldip Singh, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The petition is filed with the following prayers:

- (i) That the respondents No. 1 & 2 may be directed not to deduct any sum from the salary of the applicant;
- (ii) That the respondents No. 1 & 2 may be directed to release the applicant's salary each month with Dearness Allowances and Dearness Relief as per the law;
- (iii) That the respondent No. 1 may be directed to refund the amount which has already been deducted by it in an illegal and arbitrary manner;
- (iv) That the respondents No. 2 & 3 may be directed to take a reasonable view and the sum of Rs. 28,792/- which has already been paid to the applicant be not recovered.

2. In para-3 of the reply, it is stated as follows:

That para No. 3 of the application is misconceived and false, hence denied. The recoveries which are being effected by the respondents from the salary of the applicant, cannot be dubbed as illegal. The applicant cannot draw dearness allowance/dearness relief from the pension Disbursing Authority as well as his re-employer simultaneously. The petitioner was fully aware of the fact that he could avail dearness allowance from any one out of the two authorities, therefore, the action of respondents in recovering the amount which has been inadvertently

disbursed in favour of the petitioner, is not violative of Articles 14 and 16 of the constitution of India.

3. In view of the stand taken in the reply as above and in view of the intervening developments, in case, the petitioner has still any grievance left, he may approach the 1st respondent, in which case, the 1st respondent will look into the matter and take appropriate action in accordance with law and justice within four months from the date of production of copy of this judgment along with copy of this writ petition by the petitioner.

4. The petition is disposed of, so also the pending application(s), if any.