

Sushil Kumar Vs. State of H.P. and ors.

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Court : Himachal Pradesh

Decided On : May-24-2010

Judge : Kurian Joseph, C.J. and; Surinder Singh, J.

Appellant : Sushil Kumar

Respondent : State of H.P. and ors.

Disposition : Petition dismissed

Judgement :

Kurian Joseph, C.J.

1. The petitioner is aggrieved since he is not able to reap the fruits of orders passed by this Court regarding the vacation salary. It appears that the Government had initially decided to grant the benefit but it is seen that the same has been withdrawn as per Annexure P-3 on the ground that the State has decided to take up the matter to the Supreme Court. We are informed that the State has already filed SLP against the order dated 1.9.2008, passed in CWP No. 144 of 2000.

2. According to the learned Counsel for the petitioner, the SLP has not even been registered before the Apex Court and the petitioner seeks the benefit of order dated 1.9.2008, which the State initially had decided to implement. Apparently, the non-implementation is only on account of their decision to move the Supreme Court. It is also submitted that since the SLP has not even been admitted and

since there is no interim order, there is no justification in not granting the benefit to the petitioner at least making it subject to the outcome of the matter now pending before the Supreme Court. It is further submitted that the petitioner is undertaking that he will refund the amount in case the Supreme Court takes a decision in favour of the State.

3. Having regard to the submissions made by the learned counsel for the petitioner and learned Senior Additional Advocate General and having regard to the factual position, we are of the view that the dispute in this case can be given quietus in case the petitioner gives undertaking that in the event of the Supreme Court deciding in favour of the State, the money so received will be remitted back with 10% interest. Therefore, in the event of the petitioner giving an undertaking that he would refund the amount received by way of vacation salary with 10% interest in the event of the State winning before the Supreme Court, he shall be disbursed the vacation salary within a month of the execution of the undertaking. Needless to say that Annexure P-3 shall not stand in the way of disbursing the salary, as above.

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

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