



CWP-2543-2025

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

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CWP-2543-2025 (O & M)
Date of decision: 30.01.2025

Narinder Kaur

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Puneet Kumar Bansal, Advocate, for the petitioner.

Mr. Amarpeet Singh Bains, AAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for directing the respondents to pay salary and all other admissible benefits to the petitioner from the date she met with an accident on 08.03.2017 resulting in the permanent disability of 90%.

2. The petitioner joined as ETT Teacher on 11.09.2016 and was posted at Govt. Primary School Sodhi Nagar, Ferozepur, but unfortunately on 08.03.2017, she met with an accident while riding on an Activa on the way to school, having been hit by a car, on account of which FIR No.42 dated 04.04.2017, Police Station Kulgari, District Ferozepur, was registered, trial wherein is still pending. She is unable to even sign a document, which is apparent from the petition as it is thumb marked, certificate dated 22.01.2019 issued by the Civil Hospital, Ferozepur, confirming 90% permanent disability, is appended as Annexure P-1.



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3. The District Education Officer(SS), Ferozepur, vide letter dated 27.12.2021, Annexure P-5, addressed to the Director Education Department, Punjab, had recommended the case of the petitioner for the release of salary by considering it sympathetically, which reads thus:

“As per above, on 27.12.2021 applicant and concerned Block Primary Education Officer visited the house of concerned employee for confirming the situation. During this, this fact came out that lower body of employee, legs, arms and hands are not in working condition. Mental condition of the employee is good. Financial condition of the house is not good. As employee is bed ridden, she is fully dependent upon her family members.

It is pertinent to mention here that Narinder Kaur had marked her presence on 19.09.2016 as E.T.T.Teacher at GPS Sodhi Nagar under Block Ghall Khurd. Thereafter, on 08.03.2017, she met with an accident and hence, she could not join duty. From 08.03.2017, she is on medical leave without salary, due to which, her probation time also could not cleared.

As per instructions mentioned in para No.2 of letter No.18017/1/2014-Estt(L) dated 25.02.2015, New Delhi of Government of India, Ministry of Personnel, Public Grievance and Pension Department of Personnel Training, if any government employee become incapable during service period, then directions have been issued regarding financial benefit/salary given to him.”

4. As is apparent from the written statement filed in response to the previous writ petition, it had been merely stated that monthly salary was being paid without any reason assigned therein regarding the claim thereof from the date of accident.

5. On similar facts, CWP-21761-2022, titled as **‘Amit Kumar through his father Ram Kumar vs. State of Haryana and others**, filed by an employee who was working as Multi Purpose Health Worker since 28.06.2019 and had met with a road accident on 31.12.2020, having

“1. In the present writ petition, the grievance of the petitioner is that while working as Multi Purpose Health Worker (Male) since 28.06.2019, unfortunately he met with a road accident on 31.12.2020 and received severe head injuries and is in coma since then. The prayer of the petitioner is that as he has been declared 100% disabled, a copy of medical report dated 11.07.2022 is annexed as Annexure A-3, but no salary is being paid to the son of the petitioner since January, 2021.

5. The only justification given by the respondents for not releasing the salary of the son of the petitioner is that the matter is still pending consideration before the higher authorities to create a supernumerary post so as to release the salary of the petitioner.

7. The employer has to be sensitive about the miseries of his employee, who unfortunately met with an accident and is in Coma since last more than three years. In the present case, employee, who is in coma, has been made to approach this Court for the release of the salary which employee is otherwise entitled for under the law. This situation should have been avoided by the State being a welfare state.

9. Keeping in view Section 47 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation), Act, 1995, any employee, who acquires disability during his service, should be shifted to another post with the same pay scale and the same service benefits. In case, it is not possible to shift the employee to any other post, then any supernumerary post should be created so that the employee concerned is able to get salary which the employee



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was getting prior to becoming disabled, upto the age of superannuation. Section 47 of the said Act, 1995 is as under:-

“47. Non-discrimination in Government employment -

(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(2) No promotion shall be denied to a person merely on the ground of his disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.”

10. Keeping in view the said provisions of law, the respondents should have granted the benefit of salary to Amit Kumar, who is lying in coma for the last more than three years.

11. Nothing has come on record as to what impediment exist for non-release of the salary of disabled employee and the family has been made to approach this Court to seek the relief.

12. Keeping in view the above, as learned counsel for the respondents has not been able to dispute that Amit Kumar i.e. disabled employee, is entitled to get the salary which he was getting as on 31.12.2020 keeping in view Section 47 of 1995 Act, the present writ petition is allowed and a direction is issued to the respondents that within a period of two weeks from today, all the arrears of salary starting from 01.01.2021 be released along with all the consequential benefits.

13. As the respondents were under an obligation to release the salary to disabled Amit Kumar, when the ailment/disability was suffered on 31.12.2000 the arrears of salary will also carry interest @ 6% per annum keeping in view the judgment of the Coordinate Bench of this Court in J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355, according to which, any amount belonging to an



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employee, has been retained and used by the Department, the employee will be entitled for interest. The relevant paragraph of J.S. Cheema's case (supra) is as under: -

“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

14. Keeping in view the above, the present writ petition is allowed with the cost of Rs.25,000/- as without any valid justification, the salary of a disabled employee has been withheld and the said disabled employee has been made to approach this Court to seek his right of full salary. The cost will be paid while complying with the directions given by this Court hereinbefore. As the respondents have been directed to release all the arrears of salary starting from 01.01.2021 till the date, a further direction is also issued to release the salary to the petitioner Amit Kumar by 7th of every month till he is alive or attains the age of superannuation, whichever is earlier. It is also noticed that in case the directions issued are not complied within the time frame, serious view will be taken including the initiation of contempt proceedings against the respondents for violating the order.

15. As the salary of Amit Kumar will be deposited in the bank account and he is in coma, the bank authorities are directed that the amount which is being received as salary of Amit Kumar, be released to the family members so as to take care of said Amit Kumar during his ailing days.

3. In wake of the above, the present petition is disposed of in terms of **Amit Kumar (supra)**.

30.01.2025

parveen kumar

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No