

Court No. - 19

Case :- WRIT - A No. - 8841 of 2023

Petitioner :- Vijai Bahadur Singh

Respondent :- Punjab National Bank Thru.
Regional Manager Varanasi And 3 Others

Counsel for Petitioner :- Gyanesh Kumar Singh

Counsel for Respondent :- Anoop Kumar Misra

Hon'ble Jaspreet Singh,J.

1. Heard Shri Gyanesh Kumar Singh, learned counsel for the petitioner and Shri Anoop Kumar Mishra, learned counsel appearing for the respondents-Bank.

2. By means of the instant petition, the petitioner prays for the following reliefs:-

(i) Issue of a writ in the nature of certiorari for quashing the impugned order dated 27.09.2000 passed by the opposite party no.2 as well as the order of the appellate authority dated 11.07.2017 passed by the opposite party no.3 as contained in annexures no.1 and 2 to this writ petition.

(ii) Issue a writ order or directions in the nature of mandamus commanding the opposite parties to pay the full salary from 02.05.1997 to 31.03.2013 (the date of retirement) alongwith the all service benefits i.e. payment of gratuity and provident fund etc. and with full pension from the date of retirement.

3. Submission of the learned counsel for the petitioner is that the petitioner has not been granted the salary from 02.05.1995 till 31.03.2013 i.e. the date of his retirement. The genesis of his contention is that a disciplinary inquiry was initiated against the petitioner and simultaneously criminal proceedings were also initiated under Sections 408, 418, 419 and 420 IPC in Case Crime No.1978 of 1997.

4. It is further urged that the disciplinary inquiry against the petitioner was decided against the petitioner and he was compulsorily retired by means of order dated 27.09.2000. This order was assailed by the petitioner by filing a departmental appeal which also came to be decided against the petitioner on 11.07.2017. In the meantime, the

criminal proceedings which were initiated against the petitioner were decided in favour of the petitioner and by means of judgment dated 04.07.2013 passed by the Chief Judicial Magistrate, Pratapgarh in Criminal Case No.220 of 2000, the petitioner was acquitted giving the benefit of doubt. Even the appeal preferred before the Sessions Judge bearing No.58 of 2013 came to be decided in favour of the petitioner on 17.02.2016 and thus the petitioner could not have been subjected to the punishment on the disciplinary side.

5. All these facts were brought to the notice of the respondents-Bank and it was prayed that the petitioner should be granted the salary from 02.05.1997 till 31.03.2013 and the petitioner retired and for these issues, the petitioner had repeatedly represented to the respondents which evoked no response, hence the instant petition.

6. Shri Anoop Kumar Mishra, learned counsel appearing for the Bank has raised an objection that the order of compulsory retirement was passed on 27.09.2000 and even the appeal of the petitioner was dismissed on 11.07.2017 while the instant petition has been preferred in the month of October 2023 and as such the petition suffers from the vice of laches, consequently the petition deserves to be dismissed apart from the fact that the petitioner has filed certain representations just to cover up his laches which has neither been served in the office of the Bank nor sent by post and in the aforesaid circumstances, the petition deserves to be dismissed.

7. The Court has heard the learned counsel for the parties and also put a specific query to the counsel for the petitioner regarding the explanation of laches to which the counsel for the petitioner has drawn the attention of the Court to paragraphs 15 to 17 and submits that there is adequate explanation, hence the petition deserves to be entertained. For the sake of convenience paragraphs 15 to 17 of the petition is being re-produced hereinafter for ready reference:-

"15. That the petitioner has sent the representation to the opposite parties for treating the petitioner in service and payment of salary from 2.5.1997

to 31.3.2013 (the date of retirement) alongwith the all service benefits i.e. payment of gratuity and provident fund etc. and with full pension from the date of retirement from the year June 2016, July 2017 and June 2018 and then July 2019 for redressal of their grievance but the opposite parties have not taken any positive action in the matter. The copies of these representations are being collectively filed as annexure no.7 to this writ petition.

16. That thereafter the Covid 19 infection were started from the year March 2020 and since the petitioner has become very old and sick person and thus he has stopped to meet with the people in general as the entire functioning of the Government and other department has been affected which was continued till the May 2022 and thus the petitioner has against sent a reminder letter in the month of 19.4.2023 and lastly middle of August 2023 i.e. 18.8.2023 putting his grievance for the payment of the salary and other service benefits but nothing has been done as such the petitioner has no option but to take the shelter of this Hon'le Court by preferring the instant writ petition before this Hon'ble Court. The copy of the latest representation dated 19.4.2023, 18.8.2023 is being filed as annexure no.8 to this writ petition.

17. That thus the petitioner being aggrieved from the non hearing the grievance of the petitioner for payment of salary from 2.5.1997 to 31.3.2013 (the date of retirement) alongwith the all service benefits i.e. payment of gratuity and provident fund etc. and with full pension from the date of retirement is having no other option but to file the present writ petition from the Hon'ble Court."

8. Upon reading the same, this Court finds that there is no clear averments regarding explanation of the latches. The petitioner had superannuated in the year 2013, moreover, the judgment passed by the appellate court in Sessions Appeal No.58 of 2013 is of 17.02.2016 and yet no action was taken. The petitioner has not brought on record any documents to indicate that the alleged representations which are part of annexure no.7 were ever received by the Bank either by post nor they have any receiving thereof.

9. In view of the aforesaid, this Court finds that though the petitioner may have been acquitted in the criminal proceedings but i.e. only on account of the fact that the guilt was not proved beyond reasonable doubt and the petitioner has been granted the benefit of doubt. The disciplinary proceedings are completely on different platform and the employer has the right to take necessary action as he may deem fit in terms of the rules subject to adherence to the principles of natural justice.

10. Apparently, in so far as the disciplinary proceedings are concerned, there is no dispute that the petitioner was granted an adequate opportunity. Merely because the petitioner has been acquitted in the criminal proceedings does not give a right to assail the disciplinary proceedings after gap of seven years that too without giving any clear and cogent explanation for the latches.

11. In view of the aforesaid, this Court is not inclined to entertain the aforesaid petition which is accordingly dismissed. In the facts and circumstances, there shall be no order as to costs.

Order Date :- 9.11.2023

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