

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 20129 of 2012

Date of Decision: February 18, 2015

Balraj Gogna

... Petitioner

Versus

Punjab State Power Corp. Ltd. and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

Present: Mr. D.S. Gurna, Advocate,
for the petitioner.

Mr. Rajesh K. Sharma, Advocate,
for the respondents.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing order/letter dated 09.03.2007 (Annexure P/2) passed by respondent no.3 – Senior Executive Engineer, Punjab State Electricity Board, Agar Nagar Division, Haibowal, Ludhiana on the basis of which the retiral benefits of the petitioner have been withheld.

The only allegation against the petitioner is that there was a theft of a conductor on the night of 18.01.2006 from the store of Pudina Factory, Ladowal. The said store was unmanned as no watchman was provided for that. Petitioner informed the Assistant Executive Engineer, who made a written complaint dated 19.01.2006 (Annexure P/1) to the Incharge of Police Post, Ladowal and a copy of the same was also sent to the Senior Executive Engineer, Agar Nagar Division, Ludhiana. Thereafter, further communication was addressed to the police authority by the others also, in spite of that, the retiral benefits of the petitioner have been withheld. Petitioner in the instant writ petition has sought quashing of impugned notices/letters.

In pursuance of notice of motion, respondents appeared and filed written statement taking preliminary objections that no efforts were made by the petitioner to get FIR registered regarding theft of material. No investigation was conducted and as such the recovery of material could not be effected. Loss was caused to the respondents due to act and conduct of the petitioner. As per regulations of the respondents, the Field Officer concerned in a case of theft must immediately lodge a report with the police authorities and should get registered FIR and obtain a copy of FIR from the police authorities. The Chief Auditor of the Department has also pointed out that employee is not at fault and amount has been incorrectly put in the suspense account of the department.

I have heard learned counsel for the parties and perused the record.

Admittedly, intimation regarding the theft was given to Assistant Executive Engineer by the petitioner who made the written complaint to Incharge, Police Post, Ladowal, vide Annexure P/1 and the copy of the same was also sent to the Senior Executive Engineer, Agar Nagar Division, Ludhiana. Thereafter, the matter was pursued and even the Senior Executive Engineer, Agar Nagar Division, Ludhiana also wrote a letter to the police authorities as well as A.E.E./Tech-2, Haibowal. Vide letter dated 29.01.2009 (Annexure P/6), again Sr. Executive Engineer wrote a letter to the S.H.O. Police Station Ladowal, still nothing happened. Once the petitioner has informed the authorities, it is for the police authorities to register an FIR/DDR whatever permissible under the provisions of the law. To say that petitioner had not got registered an FIR regarding theft of material cannot be accepted at all. Not only the senior officers of petitioner wrote to the Incharge, Police Post and also sent copy of the same to the Senior officer of the Department including Senior Executive Engineer. Thereafter, the senior authorities have also been pursuing the matter. They were not in a position to get registered an FIR. Pensionary benefits of the petitioner have unnecessarily been withheld merely on the ground that he had not informed the department and the police authorities, whereas Annexure P/1 clearly indicates that the

petitioner had informed on the next day i.e. 19.01.2006 to his superior A.E.E. and the theft had occurred on the night of 18.01.2006. Petitioner was not in a capacity to compel the police to register FIR. He had informed his superior officer on the following day. So, it is wrong that petitioner did not pursue the matter with police authorities. In view of the above discussion, order/letter dated 09.03.2007 (Annexure P/2) is not sustainable. Ordered accordingly.

In view of above, instant writ petition is allowed. Order/letter dated 09.03.2007 (Annexure P/2) is set aside. Directions are issued to the respondents-authorities to release the retiral benefits of the petitioner. The authorities shall also pay interest to the petitioner at the rate of 9% per annum for the delayed period till payment is actually made to the petitioner. The department is also burdened with costs of Rs.5,000/- to be deposited with the State Legal Services Authority, Punjab and the same shall be recovered from the officer responsible for non-payment of the dues to the petitioner.

February 18, 2015
vkd

[Paramjeet Singh]
Judge