IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17226 of 2013 (O&M)
Date of decision: 01.09.2015

Manjit Kaur

....Petitioner

Versus

PSPCL and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B.BAJANTHRI

Present: Mr. Rakesh Gupta, Advocate
for the petitioner.

Ms. Geeta Sharma, Advocate
for the respondents.

P.B. Bajanthri, J.

The petitioner is wife of Sh. Balwinder Singh. The deceased Balwinder Singh died while in service on 28.04.2011. His pensionary benefits like gratuity was not settled due to the shortage of store materials which was not accounted.

The alleged allegation relates back to 2007. From 2007 to 2011, the respondents failed to initiate appropriate action like initiation of enquiry under the disciplinary regulation. On the contrary they were asking the deceased Balwinder Singh only explanation for certain shortage of store materials on various dates for which the deceased Sh. Balwinder Singh failed to reply. The respondents have failed to take action by initiating necessary disciplinary proceedings between 2007 to 2011 while he was alive. Due to lapse of the respondents in not taking disciplinary action and without determining the loss caused to the Punjab State Power Corporation in a full-fledged enquiry. By means of a calculation vide Annexure P4 and deducting the said amount from the gratuity and other retiral benefits is not in order. Learned counsel for the respondent vehemently contended that in large number of occasions from 18.06.2007 to 28.08.2010 number of letters were issued to the deceased employee seeking his explanation for shortage of materials. For which the deceased employee failed to reply. Thus, the respondents counsel submits that the loss caused to the corporation is to be deducted from the retiral benefits and it is in accordance with law.

Any deduction of amount from an employee is a civil consequence. The amount is required to be determined in a full fledged enquiry. In the present case, the allegations relates back to 2007. From 2007 to 2010, the Corporation keep on issuing letters to the deceased employee seeking his explanation. Even though, the respondents are aware that the deceased employee did not respond to the letters issued in the year 2007 till 2010. No disciplinary action has been taken. Secondly in the absence of determination of loss caused to the Corporation in a departmental enquiry, the respondents action in deducting amount of Rs.6,51,818/- from the gratuity is without any basis. Therefore, I am of the view that Annexure P4 is not sustainable in the eye of law. Accordingly, it is set aside. The respondents are directed to release deducted amount of Rs.6,51,818/- to LRs of deceased within a period of 4 weeks' from today.

Accordingly, the writ petition is disposed of.

(P.B. BAJANTHRI)
JUDGE

01.09.2015
pooja saini