

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 2165 of 2013

Reserved On : August 24, 2015

Pronounced On : 27.08.2015

Badri Parshad

.... Petitioner

vs.

State of Haryana and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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

Mr. Harish Rathee, Senior DAG, Haryana.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner prays for quashing of letter dated 30.10.2012 (Annexure P-8), through which the prayer of the petitioner, for grant of notional benefit of increment during the period of his suspension, has been denied. According to the petitioner, the denial is against the earlier order dated 14.01.2011 (Annexure P-3) passed by the Financial Commissioner and Principal Secretary to Government Haryana, Public Works (B&R) Department, Haryana. The petitioner has further

prayed that he be awarded interest @ 18% per annum on the delayed payment of his retiral benefits.

The facts in brief are that while the petitioner was serving the respondent Department as a Sub Divisional Engineer, he was suspended on 06.08.2003. Thereafter, on 10.06.2004, he was ordered to be reinstated. Soon after his reinstatement, a charge-sheet dated 09.07.2004 was served upon him to which he submitted a reply. The inquiry, which ensued, found the petitioner not guilty of the charges against him. However, the punishing Authority, through Show Cause Notice dated 19.08.2008, while differing with the Inquiry Report asked the petitioner to show cause so as to why he be not punished. To this Show Cause Notice, the petitioner submitted a detailed reply on consideration of which, vide order dated 18.10.2010, punishment of 2% cut in pension for 2½ years was imposed upon the petitioner. A cut in the pension was imposed as a punishment on account of the fact that after submitting his reply to the Show Cause Notice and before the order of punishment, the petitioner retired on 30.09.2008.

Against the order of his punishment, the petitioner preferred an appeal, which was partly allowed vide order dated 02.09.2011 and the punishment of 2% cut in pension for 2½ years was reduced to 2% cut in pension for a period of one year only.

On the conclusion of the above disciplinary proceedings, the petitioner then represented for regularization of the period of his suspension from 06.08.2003 till 10.06.2004. This representation of his was considered

and decided by respondent no. 1 through his order dated 14.01.2011, the operative part of which is as under :-

“4. After considering all facts and circumstances of the case, the Governor of Haryana is pleased to order that the suspension period of Sh. Badri Parshad from 6.08.2003 to 10.06.2004 be treated as period spent on duty for the purpose of retiral benefits only. He shall not get any thing additional for the period other than what has accrued to him and order accordingly.”

A perusal of the above order shows that the suspension period of the petitioner was ordered to be treated as period spent on duty for the purpose of retiral benefits. He was further not held entitled to any other additional benefit other than what had accrued to him. It is the admitted case between the parties that the benefit of increment accrued to the petitioner on 01.12.2003. That being so, as per the above reproduced order passed by respondent no. 1, he was entitled to the benefit of the same, though notionally and only for the purpose of grant of pension.

In view of the above, the order impugned by the petitioner, being in violation of the above referred order passed by a superior Authority than the author of the order impugned by the petitioner, is liable to be quashed.

So far as the prayer of the petitioner for grant of interest for

delay in the release of his retiral benefits is concerned, the record reveals that the petitioner retired on 30.09.2008 and it is only thereafter that the issue with regard to regularization of the suspension period was raised by him. This issue was resolved through the earlier referred order passed by respondent no. 1 on 14.01.2011. After the issue was settled, there was admittedly no delay in the release of his retiral benefits. That being so, in the peculiar facts of the case, I do not consider this to be a fit case where interest can be granted to the petitioner on the release of his retiral benefits.

In view of the above, order dated 30.10.2012 (Annexure P-8) is quashed, with a direction to the respondents to notionally grant the benefit of increment to the petitioner, which was due on 01.12.2003, only for the purpose of grant of pension. After the needful is done, the arrears of pension be released to the petitioner within three months from the date of receipt of a certified copy of this order.

The writ petition stands disposed of in the above terms.

(DEEPAK SIBAL)
JUDGE

Pronounced On : 27.08.2015

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