IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.2937 of 2014
Date of decision: 19.12.2015

Shashi Bawa

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

<u>Present</u>: Mr.R.K.Arora, Advocate,
for the petitioner.

Mr.Inqulab Nagpal, AAG, Punjab.
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1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

<u>RAJIV NARAIN RAINA, J. (Oral)</u>

The petitioner applied for voluntary retirement after clocking 35 years of service in the respondent department. The request was accepted by the Government and an order was passed on May 16, 2013 retiring the petitioner from service unconditionally with effect from June 30, 2013. Despite the order, the petitioner has not been granted her pensionary benefits other than leave encashment, GPF amounts in her credit and GIS dues. These dues were retained for a long time and have been paid during the pendency of the petition. The petitioner has not been granted regular pension and DCRG which has been illegally withheld without passing an order in writing on the fallacious reasoning that on June 28, 2013, she did not attend office which was a Friday, her last day of service. It is noteworthy that June 29, 2013 and June 30, 2013 were holidays being Saturday and Sunday. Even assuming that a rule could be cited supporting the stand of the department, even then the reason for withholding the money is hyper-technical in nature which does violence to the petitioner right of being set free from the yoke of government service especially when her request was accepted prior thereto. The department could always have granted leave of the kind due to the petitioner for June 28, 2013 and regularize service for that day. On the part of the petitioner no fault can be found as she had informed the department that she would not be coming to the office on June 28, 2013 on account of having to leave ex India in a hurry to be with her daughter in the foreign country who was said not to be keeping well. It would thus not be necessary to dilate on the question of absence of June 28, 2013 and do hair-splitting and draw overfine and needless distinctions in the rules which should not be read myopically but broadly to accommodate the vagaries of life and unforeseen events.

2. Mr.Nagpal states from the record and on instructions from Surinder Mohan, Employment Officer, Directorate, Chandigarh present in court that the petitioner applied for casual leave from June 17, 2013 to June 27, 2013 which was granted by the competent authority. Therefore, the only date on which the case of the petitioner has not been scuttled is her absence on June 28, 2013. This is hardly fair or reasonable. The action of the respondents appears more a measure of harassment than one of piously defending rules. The petitioner had sent her leave application for the fateful day which could have been accepted measuring 35 years of service against

one solitary day. This inaction on the part of the competent authority appears to be mostly the handiwork of a callous and incompetent authority which is clearly unsustainable in the eye of law and the absence for one day could have been ignored or cured ex post facto. This situation has led to denial of regular pension and gratuity to the petitioner so far and has compelled her to knock the doors of this Court.

3. On due consideration of the matter, this Court is of the opinion that the stand of the respondents is wholly untenable and therefore this petition deserves to be allowed. It is ordered, accordingly. The impugned inaction of the respondent is deprecated. The wrong has to be amended. The absence of June 28, 2013 is directed to be regularized. The amounts of arrears of full pension and gratuity are directed to be released to the petitioner within 2 months from the date of receipt of a certified copy of this order. The amounts of arrears of pension and pensionary dues and gratuity will earn interest @ 12% per annum by way of allowance accruing from three months from the date of voluntary retirement, failing which, the amounts will earn interest @ 18% penal to ensure timely compliance. Besides, the delayed payments of leave encashment, GP fund and GIS will also earn the same rate of interest, i.e., 12% per annum from the date of voluntary retirement till the dates of actual payment.

(RAJIV NARAIN RAINA)
JUDGE

December 19, 2015
Paritosh Kumar