

COCF No. 1554 of 2015

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCF No. 1554 of 2015

Date of Decision: September 06, 2016

Mahabir Singh (Retd.)

...Petitioner

Versus

Nitin & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Naveen Daryal, Advocate
for the petitioner.

Dr. Sushil Gautam, DAG, Haryana.

Ms. J.K. Dhaliwal, Advocate
for respondent No.3.

AUGUSTINE GEORGE MASI, J. (Oral):

Petitioner has approached this Court alleging violation of the order dated 12.01.2015 (Annexure P-1) passed by this Court in CWP No.6000 of 2012, titled as 'Mahabir Singh Vs. UHBVNL & others', wherein, directions were issued to the Competent Authority to decide the matter with regard to the issuance of a consolidated show cause notice and thereafter, grant an opportunity of being heard to the petitioner and pass appropriate orders within a period of four weeks from the date of hearing of the petitioner. It was directed that soon after the matter is decided by the Competent Authority, the remaining retiral benefits which the petitioner is entitled to shall be released without any further loss of time, within a period

of one month. It was further ordered that in case, the amount is illegally

withheld, interest at the rate of 9% per annum from the date the amount becomes due till the date of actual payment was to be released.

It has been asserted by the counsel for the petitioner that the show cause notice which was issued to the petitioner on 13.02.2015 has been withdrawn by the Competent Authority vide order dated 21.04.2015 (Annexure P-5). With the withdrawal of the said show cause notice, the petitioner is entitled to release of all the consequential benefits which have not been released rather a fresh show cause notice dated 15.10.2015 was served upon the petitioner and thereafter, on 23.12.2015, recovery has been ordered which is not permissible in the light of the order passed by this Court dated 12.01.2015. Counsel, thus, contends that the respondents have rendered themselves liable to be proceeded against under the Contempt of Courts Act, 1971.

Counsel for respondent No.3, on the other hand, contends that the show cause notice which was issued to the petitioner on 13.02.2015 was withdrawn because of the technical error, as is apparent from the order dated 21.04.2015 (Annexure P-5) passed by the Competent Authority. Her assertion is that in the said order, it has specifically been mentioned that the show cause notice dated 13.02.2015 was inadvertently issued and accordingly, the error has been rectified by issuance of a show cause notice dated 15.10.2015 (Annexure R-1) by the Competent Authority. Petitioner was, vide letter dated 14.12.2015 and letter dated 31.12.2015 called upon to appear in person to explain his position but he chose not to appear on the said dates. Faced with this situation, the Competent Authority vide office

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order No.244 dated 23.12.2015 proceeded to decide the matter and ordered recovery of an amount of ₹ 95,174/- from the retiral benefits of the petitioner. She, thus, contends that there has been no violation of the order passed by this Court.

On considering the submissions made by the counsel for the parties, this Court is of the considered view that there is no violation of the order passed by this Court as alleged. Although, earlier a show cause notice was issued to the petitioner which is dated 13.02.2015 but the same has been withdrawn on 21.04.2015 on the ground that it was inadvertently issued and therefore, the subsequent show cause notice dated 15.10.2015 (Annexure R-1) issued by the respondents cannot be said to be of such a nature which would be violative of the order passed by this Court. Consequently, action as has been taken by the respondents also appears to be as per the directions issued by this Court.

In view of the above, the present contempt petition is disposed of as not made out. However, liberty is granted to the petitioner to avail of his remedy, in accordance with law, against the action taken by the respondents, which according to the petitioner is not permissible in law.

Rule issued to the respondents stands discharged.

(AUGUSTINE GEORGE MASIH)
JUDGE

September 06, 2016
Harish

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No