IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

COCP no. 3365 of 2014(O&M)
Date of Decision :15.01.2016

Dropati

....Petitioner(s)

Versus

Sh. Gurdas Singh and another

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Ms. Divya Godara, Advocate for the petitioner
Mr. Anant Kataria, DAG, Punjab
Mr. Akhtar Ahmed, Advocate for respondent

MAHESH GROVER, J.

The writ Court had mandated as below:-

> "For the reasons afore-stated, the writ petition is allowed and the respondents are directed to allow the petitioner to exercise her option under the 1994 Rules for the grant of pension subject to her refund of the Provident Fund amount etc., if any, received by her along with interest and upon deposit thereof, the respondents shall release pension to her within one month."

Evidently no rate of interest was prescribed while entitling the petitioner to a refund of the Provident Fund dues so as to enable her to get her pension. The LPA Bench disposed of the appeal by observing as under:-

> "The authorities are directed to calculate and disburse

pension to the respondent within three months from the date of receipt of copy of this order, failing which she will be entitled to get interest @ 8% per annum till such time the payment is not made."

The aforesaid would indicate that the respondents were bound to payment of interest at the rate of 8% as far as the pensionary dues were concerned. The matter was then taken to the Supreme Court where it was observed as follows:-

> "Having heard learned counsel for the petitioner, we find no justification whatsoever to interfere with the impugned order passed by the High Court in exercise of our jurisdiction under Article 136 of the Constitution of India. It is however necessary to clarify, that the refund of the retiral dues including the Contributory Provident Fund, if any, shall be the pre-requisite to the entitlement of the private respondent to pension. Thus viewed, the period of three months allowed by the High court would commence to run with effect from the date the private respondent deposits the afore-mentioned dues.
>
> With the aforesaid observations, the special leave petition is dismissed."

The conjoint reading of the operative portions of the order extracted above indicate that the petitioner was obliged to refund the contributory fund as a pre-requisite to her entitlement of pension.

It is conceded by the petitioner that this has not been done.

If that be so, then the instant petition is not maintainable at all as the petitioner herself is in contempt of the orders of the Courts. Having not paid the Provident Fund dues in terms of the orders of the Courts as extracted above, the petitioner cannot insist either on pension or maintain prayer that respondents be proceeded against under the Contempt of Courts Act.

However, she would be at liberty to approach the respondents for set of, of the amount due to her as against her dues. The respondents may adjust the amount the petitioner is obliged to return and pay her the remaining dues.

Disposed of as above.

January 15, 2016 **(Mahesh Grover)**
rekha **Judge**