IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11537 of 2011
Date of Decision:- 28.04.2016

K.K. Nagpal

....Petitioner

Versus

U.H.B.V.N.L. and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.K. Goel, Advocate,
for the petitioner.

Mr. Sudhir Hooda, Advocate
for the respondents.

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RITU BAHRI, J. (Oral)

Petitioner is seeking directions to the respondents to release the pensionary benefits like gratuity and commutation along with interest.

Petitioner suffered a massive attack of paralysis in the year 1997. He was posted at Israwa Headquarter, Panipat as Junior Engineer (Field) in UHBVNL Ltd. A charge-sheet was issued on 19.01.2004 to the petitioner on account of that a consumer applied for reconnection of account No.SM-2/160 Israna, Sub Division, who was not eligible and the petitioner has shown RCO effected on 20.12.1996 at the original site, whereas the said RCO was not effected. The petitioner filed a reply to the charge-sheet, controverting the allegations and stated that he suffered paralysis attack on his right side since last 7 years and it was difficult for him to visit each and every site repeatedly.

The petitioner retired on 31.10.2004 as per letter dated 18.10.2004 (Annexure P-3). The petitioner was not given the pensionary benefits including GPF and other dues. He moved representation dated 27.04.2005 (Annexure P-4). Thereafter, vide letter dated 29.10.2005 (Annexure P-10), the absented period from 08.03.2004 to 05.05.2004 and 18.05.2004 to 16.07.2005 was regularized as leave of kind due. The petitioner was granted 70% provisional pension w.e.f. 24.05.2005 instead of 31.10.2004, vide letter dated 11.10.2005 (Annexure P-8).

Upon notice, written statement has been filed on behalf of respondent Nos.1 and 2 and the stand taken therein that in pursuance to the charge-sheet dated 19.01.2004 (Annexure P-1) and after going through the reply dated 24.08.2004 (Annexure P-2), the competent authority vide order dated 09.01.2007 has ordered to stop his one increment without future effect. This order has attained finality. The show cause notice was given to the petitioner 07.12.1998 (Annexure R-2). The petitioner did not file his reply to the said show-cause notice. Vide order dated 25.05.1999 (Annexure R-7)the competent authority has ordered to stop two annual increments without future effect on account of poor maintenance of L.D. System resulting to damage of 103 distribution transformers, which was under the charge of the petitioner from April, 1997 to March, 1998. It is further admitted that vide order dated 18.10.2005 (Annexure R-5), the petitioner was sanctioned 75% provisional pension. It is further stated that recovery of ₹9,66,084.90 are pending against the petitioner, therefore, the gratuity and commutation of pension benefits has not been released to the petitioner. The petitioner was charge-sheeted twice and vide office order dated 17.09.1998 the punishment of recovery of ₹1,38,000/- was inflicted and an amount of ₹69,000/- was ordered to be recovered from the petitioner on account of misappropriation of board's material worth ₹1,38,000/-. It is further clarified that salary of the month of September and October 1999 has already paid to the petitioner. Petitioner does not dispute the punishment orders (Annexures R-2, R-6 and R-7).

Now the dispute pertains to the recovery, which the respondents are seeking to make from the retirement benefits of the petitioner, vide letter 12.06.2006 (Annexure R-3). Perusal of letter (Annexure R-3) shows that it is the calculation, which has been made by the Account Officer to the XEN. The petitioner had superannuated on 31.10.2004 and no recovery can be effected from the retiral benefits merely on account of some information which has been sent vide letter dated 12.06.2006 (Annexure R-3). The recovery has to be effected after following the due procedure i.e. on giving notice and seeking reply from the petitioner, which has not been done in the present case.

Accordingly, the present writ petition is allowed and the directions to the respondents to make the payment of retirement benefits along with 9% interest to the petitioner from 31.01.2005 till the payment is being made, without taking into consideration the information/loss assessed by Account Officer, vide letter dated 12.06.2006 (Annexure R-3).

April 28, 2016 (**RITU BAHRI**)
naresh.k JUDGE