

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13843-2013 (O&M)
Date of decision: 04.08.2016

Shiv Ram Saini

.....Petitioner

versus

Municipal Corporation, Yamuna Nagar and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.K.K.Gupta, Advocate for the petitioner
Mr.Raman B. Garg, Advocate for the respondent No.1
Mr.Naveen Sheoran, DAG Haryana

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Petitioner was working in Municipal Corporation, Yamuna Nagar. He retired from service as a Clerk on 31.8.2012. The pensionary benefits were not paid to him. It comes out that on 3.12.2013, petitioner was charge sheeted in causing loss of one receipt from the receipt book. It further comes out that an inquiry was held and as per inquiry report Annexure P4, it was held that the charge of committing embezzlement due to loss of original receipt book, receipt No.48 is not proved. However, he was held guilty of charge of carelessness. Accordingly, a show cause notice dated 22.4.2015 was issued, wherein the department proposed to award the following punishment: _

*“That a strict warning is awarded to you and further that
if any financial loss would suffered to exchequer of Municipal*

Corporation, Yamuna Nagar – Jagadhri due to misutilization / embezzlement against the original receipt No.48 of G-8 Book No.818 in future, you would be personally liable to compensate the same alongwith penalty”.

It further comes out that thereafter on 26.5.2015, he was awarded the punishment of warning. At the same time, he was directed to furnish the indemnity bond, so as to ensure that if in future, some loss is caused, the recovery can be made from his retiral benefits.

I have heard learned counsel for the parties and have also carefully gone through the file.

It comes out that the punishment of warning is one of the punishments, which can be awarded to the employee. However, the remaining part of the punishment of recovery of loss in future is not one of the punishments and accordingly no punishment can be awarded to furnish indemnity bond also, particularly, when it is specifically held by the inquiry officer that no loss has been caused due to loss of the said receipt.

It being so, the department erred in withholding the retiral benefits. The petitioner retired from service on 31.8.2012 and in pursuance to the order dated 13.12.2013, passed by this Court in the instant petition, the provisional pension was released, which shows that prior to that, even provisional pension was not released. If departmental proceedings are pending, the provisional pension could be withheld but not all the retiral benefits. Therefore, the writ petition is allowed. The respondents are directed to release all the retiral benefits to the petitioner as admissible to the petitioner under the rules. The petitioner shall be entitled to interest @ 9% per annum on the delayed payment of provisional pension from 31.8.2012

till it was actually released and shall also be entitled to interest @ 9% per annum on the remaining retiral benefits.

04.08.2016
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes/ No

Whether Reportable:

Yes/No