

221

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 15266 of 2014 (O/M)
Date of decision : 11.7.2016

Raman Kapoor

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R.S. Bajaj, Advocate, for the petitioner.

Mr. Rajat Bansal, Assistant A.G. Punjab.

Mr. Suvir Kumar, Advocate, for respondent No. 3-Trust.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ? Yes.
2. To be referred to the Reporter or not. Yes.
3. Whether the judgment should be reported in the digest ? Yes.

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KULDIP SINGH J. (ORAL)

The petitioner retired as Executive Officer from Improvement Trust, Kapurthala on 31.1.2009. According to the petitioner, in the year 1994, the Punjab Government implemented Pension Scheme to the employees of the Local Government Department. As the said pension scheme was not sufficiently circulated, therefore, many employees including the petitioner could not submit their option for the said pension scheme. Therefore, the employees' unions held a meeting under the chairmanship of the Chief Minister, Punjab, and it was decided to give another chance to its officials to opt for pension scheme, who had not done so earlier. The last date for submission of option was 31.12.2011. Accordingly, the petitioner exercised his option on 26.12.2011 and the same was diarised at No. 292, dated 26.12.2011, in the office of Director, Local Government, Punjab-respondent No.-2. Thereafter, the petitioner submitted

CWP No. 15266 of 2014 (O/M)

several representations. The case has been forwarded to the Government, but the pension is not being released so far.

In the reply by the State as well as the Improvement Trust, the factum of submission of option by the petitioner on 26.12.2011 has not been specifically denied. Rather, it is stated that it is a matter of record. Respondent No. 3-Trust has taken the stand that the employees could not be given any benefit as there was no amendment in the Pension Rules, 1994, as the Pension Scheme dated 31.10.2011 was never finalized. Therefore, as per letter dated 1.3.2012, no pension could be released to any of the employees. The Pension Scheme dated 31.10.2011 was never implemented. It was further stated that keeping in view the poor financial condition of pension funds, all the local bodies were directed that they may ensure the submission of amount of the monthly pension contribution to the concerned competent authority during the first week of the month and the local bodies, who have to deposit this amount for the previous time, may ensure to deposit this amount immediately in the pension fund on priority basis.

The State in the reply has also taken more or less similar stand, stating that the matter regarding the funds was taken up with the Finance Department, Punjab. The Department of Local Government, Punjab, is not in a position to pay the liability of Rs. 90 crores, which would only be arrears of pension accrued. Therefore, the case for providing requisite funds was sent to the Finance Department, but it has shown its inability to provide funds on 21.7.2015. The matter was again brought to the notice of Chief Minister of Punjab. The Special Principal Secretary (A) to the Chief Minister has conveyed that the Chief Minister of Punjab has desired that the matter be again taken up with the Department of Finance. Therefore, the

CWP No. 15266 of 2014 (O/M)

matter for providing of grant/funds was sent to the Finance Department, Punjab and the same is still pending. It was further stated that the decision regarding amendment of Pension Rules, 1994, could be taken only after the Finance Department, Punjab, convey its decision regarding providing of financial assistance to the Department of Local Government. It was further stated that the amendment in the Pension Rules, 1994 is required before the amendment is carried out.

I have heard the learned counsel for the petitioner, the learned State counsel, the learned counsel for respondent No. 3-Trust and have also carefully gone through the file.

Admittedly, the petitioner retired as Executive Officer from Improvement Trust, Kapurthala, on 31.1.2009. It is also admitted that the pension rules were made applicable to the employees of the Local Government. It is not denied that a meeting was held on 31.10.2011 and a letter (Annexure-P-1) was circulated to the different departments including the Department of Local Self Government, whereby it was decided that those employees who could not opt for the pension scheme, can adopt the same till 31.12.2011. Undisputedly, before the said date, the petitioner exercised the said option, vide Annexure-P-2. The problem put forward by the State is that the Pension Rules, 1994, were not amended, which is mandatory for implementing Annexure-P-1. The financial constraints of the State in releasing the funds has also been revealed.

I am of the view that it is a job of the Government to amend the rules and implement the decision and if they sit back and do not work on it, they are to blame themselves. It is nothing, but a willful neglect on the part of the State in not amending the pension rules. Otherwise, there is no legal

CWP No. 15266 of 2014 (O/M)

bar on the Government to amend the said Rules. As per the letter (Annexure-P-1), the petitioner had opted for pension rules. The constraints of the funds is no ground to withhold the pension. It being so, the petitioner is held entitled to the pension as per the option exercised by him, on the payment of amount of contributory provident fund plus interest. Accordingly, the present writ petition is allowed. The State is directed to take necessary steps regarding the release of the pension on the payment of amount by the petitioner and release the same within three months from the date of receipt of copy of this order/payment of contribution, whichever is later. It is made clear that it is for the State to make the necessary amendments in the Pension Rules of 1994 and take other necessary steps regarding release of the funds. However, the petitioner shall be entitled to interest at the rate of 9% per annum for the delayed payment of pension.

(KULDIP SINGH)
JUDGE

11.7.2016
sjks