

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.20711 of 2014

Date of decision: 22.01.2016

Balwant Singh

....Petitioner

Versus

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

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jagbir Malik, Advocate
for the petitioner.

Mr. Pardeep Singh Poonia, Advocate
for the respondents.

RITU BAHRI J. (Oral)

The petitioner has filed this writ petition for quashing the impugned instruction dated 02.09.2005 (Annexure P-1) and further seeking direction to the respondents to release the arrears of pension and leave encashment after counting the work charge period from 26.06.1970 to 30.08.1979.

The petitioner was appointed on the post of T. Mate on work charge basis. On 31.08.1979, he was regularized on the post of Assistant Lineman and in the year 1992, he was promoted to the post of Lineman and lastly, he was given promotion to the post of Assistant Foreman. The petitioner was retired from the service as Assistant Fireman on 30.11.2011, after attaining the age of superannuation.

The grievance of the petitioner in the present writ petition, is that on retirement he was given the amount of leave encashment, G.P.F. and 100% Provisional Pension without counting his work charge period from 26.06.1970 to 30.08.1989. The amount of Gratuity and commutation of pension was not released to the petitioner.

Upon notice in the writ petition, written statement dated 29.03.2015, has been filed on behalf of respondents No.1 to 6, stating therein that the petitioner had failed to return 69 numbers of transformers, the cost of such transformers was approximately Rs.69,82,489/-. During the service tenure of the petitioner vide communications dated 15.05.2013, 27.03.2014 and 04.09.2014 Annexure R-1, collectively, he was asked to return the transformers. All these communications have been sent to the petitioner after the date of his retirement. Apart from this, a sum of Rs.1,42,648/- has also been shown to be outstanding against the petitioner as per report of Chief Auditor. However, in Para 9 of the written statement, it is admitted by the respondents that no disciplinary proceedings are pending against the petitioner after his retirement.

The Co-ordinate Bench of this Court in CWP No.1318 of 2009, titled as “Ram Phal vs Uttar Haryana Bijli Vitran Nigam Limited and others”, decided on 08.01.2010 (Annexure P-4), had given directions to the respondents to make

the payment of with-held retiral benefits and a mere service of notice did not culminate in an enquiry or a finding that the petitioner was liable for such a sum. In Ram Phal's case (supra), show cause notice had been given to the petitioner on 30.12.2005, before his retirement i.e. 31.12.2007. No recovery proceedings were initiated against the petitioner after issuing a show cause notice. In the absence of any enquiry or order of punishment, the recovery could not be made and a direction was given to release the with-held retiral benefits to the petitioner along with 9% interest from the date of retirement i.e. 31.12.2007.

In the facts of the present case, after the date of retirement, notices have been issued to the petitioner vide Annexure R-1, collectively and the complete amount of gratuity has been with-held by the respondents.

Keeping in view the above facts and circumstances and without expressing any opinion on the merits of the case, the present petition, at this stage, is allowed, with a direction to respondents to release the entire gratuity and commutation of pension to the petitioner within a period of two months from the date of receipt of certified copy of this order, along with 9% interest w.e.f. 01.01.2012 till the date of payment.

(RITU BAHRI)
JUDGE

22.01.2016

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