

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 24519 of 2013 (O/M)
Date of decision : 5.8.2016

Jagdev Sharma

..... Petitioner (s)

Versus

State of Punjab and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ashok Bhardwaj, Advocate, for the petitioner.

Mr. R.S. Pathania, Deputy A.G. Punjab.

Mr. Arvinder Singh, Advocate, for respondent No. 3.

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

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KULDIP SINGH J. (ORAL)

The petitioner-Jagdev Sharma, who retired as a Branch Manager from The Sangrur Central Co-Operative Bank Limited, Sangrur, seeks issuance of a writ of mandamus, directing the respondents to release his leave encashment and gratuity. It is stated that the petitioner retired from service on 31.8.2012 on attaining the age of superannuation.

It comes out that during the service of the petitioner, he was chargesheeted and two punishment orders of same date i.e. 11.4.2011 (Annexures-P-3 and P-4 respectively) were passed. Through the first punishment order dated 11.4.2011 (Annexure-P-3), the pay of the petitioner was reduced/fixed at the last stage i.e. Rs. 11,725/- under Rule 5 (6) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. Through the second punishment order dated 11.4.2011 (Annexure-P-4), one annual increment of the petitioner was stopped with cumulative effect under Rule 5

CWP No. 24519 of 2013 (O/M)

(6) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. It comes out that in the first punishment order i.e. Annexure-P-3, it was further observed that it shall be personal responsibility of the petitioner to effect recovery of the loan cases, as per the chargesheet. The petitioner made a representation dated 18.6.2013 (Annexure-P-1) for release of retiral benefits. The said representation was replied by respondent No. 3, vide letter dated 1.7.2013 (Annexure-P-2), in which following reasons were given for non release of the retiral benefits :-

“..... It is intimated in this regard that your personal responsibility was fixed for recovery of loan cases, vide resolution No. 2 and resolution No. 3 dated 4.2.2011 by the disciplinary action committee of the Bank, while deciding your chargesheets of your misconducts and irregularities, while you were serving in Branch Office, Sangrur and Branch Office Jhajali. Information of the same was given to you vide this office letter No. 265-68 dated 11.4.2011 and letter No. 269-72 dated 11.4.2012. Apart from that Senior Auditor, Cooperative Societies, Sangrur has instructed not to release your retiral dues because of Special Audit reports regarding Branch Office, Sangrur and Branch Office Jhajal belonging to loan cases was prepared, recovery of those loan cases is still pending and special reports prepared against you is also still pending. Therefore, your retiral dues can be released by this office after compliance of the aforesaid instructions.”

I am of the view that once the punishment has been awarded on the basis of chargesheets and after the retirement, no fresh show cause notice or chargesheet has been issued, merely because of the fact that some bad loans, advanced by the petitioner, are being recovered and that the Senior Auditor of the Cooperative Societies, Sangrur, had instructed not to release the retiral benefits till the receipt of special audit reports, the retiral

CWP No. 24519 of 2013 (O/M)

benefits cannot be withheld for indefinite period without issuing any show cause notice or without holding any inquiry, as stipulated in Rule 2.2 (b) of the Punjab Civil Services Rules, Volume-II, Chapter-II. As such, the present writ petition is allowed. The respondents are directed to release the gratuity and leave encashment to the petitioner with interest at the rate of 9% per annum, starting three months from the date of his retirement till the payment.

(KULDIP SINGH)
JUDGE

5.8.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No