

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-27363-2013 (O&M)
Date of decision: 03.11.2016

Ramesh Kumar

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Arun Abrol, Advocate for the petitioner
Mr.R.S.Pathania, DAG Punjab
Mr.Anoolp Kumar Yadav, Advocate for the respondent No.5

- 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 is a retired Inspector from Municipal Council, Gurdaspur. Since, his retiral benefits were not released, he approached this Court by filing CWP No.2091 of 2012, which was disposed of by learned Single Bench of this Court vide order dated 15.2.2012, on the basis of the statement made by the respondents, wherein it was stated that the pension case of the petitioner has been forwarded to the Deputy Director, Local Bodies, Amritsar and the same is pending with him. However, the letter dated nil endorsed on 9.4.2012 (Annexure P9) shows that the said Deputy Director, Urban Local Bodies, Amritsar addressed a communication to the Executive Officer, Municipal Council, Gurdaspur stating that the statement made before this Court was wrong and that pension case of the petitioner is not sent to him. Subsequently, pensionary benefits were not released.

Petitioner thereafter applied for information under RTI Act, wherein he was supplied a copy of the order dated 8.5.2012 (Annexure P13) which shows that on account of re-fixation of pay, a sum of Rs.1,57,096/- has been deducted from the retiral benefits.

A copy of the said order is also reported to have sent to the petitioner Ramesh Kumar, retired Inspector without mentioning his address and also to Mr.Arun Abrol, Advocate, without mentioning his address. However, the receipt of the said communication is denied by the petitioner and his counsel. In the present petition, the said recovery is challenged.

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

The impugned order dated 8.5.2012 (Annexure P13) passed after the retirement of the petitioner. In view of the authority of the Hon'ble Supreme Court in State of Punjab vs. Rafiq Masih, (2015) 4 SCC 334, no recovery can be effected from the retiral benefits after the retirement of the employee, if wrong fixation is done due to fault of the department and not the fault of the employee. Therefore, no recovery can be made. Therefore, order dated 8.5.2012 (Annexure P13) is quashed.

Petition is allowed.

03.11.2016

gk

(Kuldip Singh)

Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No