IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 7963 of 2012 (O/M)
Date of decision : 26.7.2016

Harcharan Singh Gill .... Petitioner (s)

Versus

Panchayat Samiti and others .... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. K.K. Gupta, Advocate, for the petitioner.

Mr. P.K. Sharma, Advocate, for respondent No. 1.

Mr. Harkesh Manuja, Advocate, for respondents No. 2 to 4.

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, who was initially appointed in Panchayat Samiti in joint State of Punjab, till his allocation to the Union Territory of Chandigarh on 16.10.1969. The petitioner retired as Superintendent from service of respondent on 30.6.2002 on attaining the age of superannuation. The Punjab Panchayat Samiti and Zila Parishads Employees Pension and Provident Fund Rules, 2000, (in short 'Pension Rules of 2000') were notified by the Government of Punjab, Department of Rural Development and Panchayats, vide Notification dated 14.7.2000 (Annexure-P-2) and the same were adopted by the Chandigarh Administration, Department of Rural Development and Panchayats, vide Notification dated 5.9.2001 (Annexure-P-3). The grouse of the petitioner is that he was paid pension after his retirement, but suddenly with effect from March, 2003, his pension was stopped. The petitioner made various representations to the respondents in the year 2003 (Annexure-P-5) and ultimately served a legal notice on 15.3.2007 (Annexure-P-8) and thereafter, the present petition was filed, much later in the year 2012.

On behalf of respondents, it is not denied that the said Pension Rules of 2000, were adopted. It is also not denied that the pension papers of the petitioner were not completed and sent by the Executive Officer, Panchayat Samiti, to the Comptroller for verification. It is pleaded that the pension rules were adopted without proper analysis and financial implications involved therein. The scheme is financially unviable. Therefore, there was a proposal to end the scheme by 1.3.2003. The petitioner has been paid pension amount till 28.2.2003. It is further pleaded that under Rule 10 (3) of the said Pension Rules of 2000, the pension fund was required to be established.

The Chandigarh Administration has taken the stand that the said pension rules were not got approved from them and that the compliance of Rule 10 (3) of the said Pension Rules of 2000 was not made to create a pension fund.

I have heard the learned counsel for the petitioner, the learned counsel for respondent No. 1, the learned counsel for respondents No. 2 to 4 and have also carefully gone through the file.

The Notification dated 5.9.2001 (Annexure-P-3) belies the stand of the Chandigarh Administration that the said Panchayat Samiti and Zila Parishads Employees Pension and Provident Fund Rules, 2000, as notified by the Government, were not adopted by them. The fact remains that whether these rules are viable or unviable, these were adopted by the respondents. Now, they are to go by the said rules. The said rules have not been repealed so far. Moreover, even if these rules are repealed, these can be repealed only with prospective effect and will not affect the employees, who are already entitled to the benefit of the same and retired before the date of its repealing. Admittedly, the petitioner was paid pension till March, 2003, and thereafter, the same was stopped. It is also not a denying fact that the petitioner himself is guilty of latches. He made various representations to the respondents in the year 2003 and thereafter kept mum for nearly about four years and served a legal notice only on 15.3.2007 and thereafter, filed the present writ petition after five years. However, the receipt of pension is a recurring cause of action and for delay and latches, the interest can be denied to the petitioner. It being so, the present writ petition is allowed. The respondents are directed to pay the arrears of pension from March, 2003, till date to the petitioner. However, no interest shall be payable till the present writ petition was actually filed before this Court on 30.4.2012. It follows that interest at the rate of 9% per annum is payable from the date of filing the present writ petition on 30.4.2012 till payment. The respondents are further directed to continue pay the monthly pension on due date.

(KULDIP SINGH)
JUDGE

26.7.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes