

101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.6195 of 2015 (O&M)
Date of decision : September 29, 2016

Dr. Anita Bala Seti

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Anurag Goyal, Advocate for
Mr. Abhishek Sethi,, Advocate for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

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 ?

KULDIP SINGH J. (ORAL)

Petitioner, who was working as Senior Medical Officer at Jagadhri, District Yamuna Nagar was placed under suspension on 28.05.2014 and retired from service on 28.02.2015, after attaining the age of superannuation. A charge-sheet was issued to her on 10.04.2015 under Rule 7 of Haryana Civil Services (Punishment and Appeal), Rules, for taking action under Rule 2.2(a) and 2.2(b) of the Haryana Civil Services Rules, Volume -II.

This Court has been intimated that the reply to the charge-sheet has been submitted by the petitioner on 18.09.2016 and the authorities are yet to take a decision whether the reply is satisfactory and if not whether inquiry is to be initiated or not.

In the retirement order dated 27.02.2015 (Annexure P-1), it was ordered that DCRG, Pension, leave encashment will be withheld, in accordance with Rule 2.2.(a) and 2.2(b) of the Civil Services Rules, Volume II, subject to the condition of any adverse decision which could be taken against the petitioner by the Government in the disciplinary matter.

It comes out that earlier the FIR was registered against the petitioner. In the charge-sheet, the allegations are of causing loss of ₹40,695/-. While granting the anticipatory bail to the petitioner vide order dated 04.02.2016 (Annexure P-8) passed by this Court in CRM No.43569 of 2015 got deposited the disputed amount of ₹40,000/- with the Investigating Officer. In this way, the said loss is already lying safe with the Investigating Officer.

Now, it comes out that pension, DCRG, leave encashment and all the retiral benefits have been withheld and have not been released.

I am of the view that assuming that inquiry is held and the petitioner is held guilty, the department can only recover the loss and impose a cut upon her pension. The alleged loss is lying deposited with the Investigating Officer in the criminal case and the department can get the same. In case, the charges are proved then regarding pension only cut can be imposed and the arrears can be recovered from the next pension payable in the coming months.

It being so, there is no justification in withholding the pension, DCRG, leave encashment and other retiral benefits. It appears that on account of one or the other reason, the department is acting in a bureaucratic manner by withholding all the retiral benefits without applying its mind to

the facts of the case. Even provisional pension has not been released. The conduct of the department in such circumstances deserves an adverse remarks from this Court.

In these circumstances, the present writ petition is allowed and the respondents are directed to release the pension, DCRG, leave encashment and other retiral benefits with interest @ 9% per annum, starting three months from the date of retirement of the petitioner till payment.

However, in case the department orders the regular inquiry and decide to recover the loss, the same can be recovered from the amount lying deposited with the Investigating Officer. If ultimately any cut is imposed on the pension, the arrears can be recovered in installments from the monthly pension of the petitioner. The arrears of the salary shall also be paid to the petitioner with interest @ 9% per annum from the date it became due. The amount shall be released within two months from the date of receipt of copy of this order.

It is expected that the concerned authority shall not take this adverse remark to the heart while deciding whether to proceed with the charge-sheet or not.

September 29, 2016

sarita

Whether speaking / reasoned

Whether Reportable:

Yes

No

**(KULDIP SINGH)
JUDGE**