

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

C.O.C.P. No.530 of 2015 (O&M)

Date of Decision: 18.01.2017

V.M.Sharma

..... Petitioner

Versus

Sh. Rajesh Bansal, Deputy Controller of Stores,
Northern Railway and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. H.C.Arora, Advocate for the petitioner.

Mr. Yogesh Putney and Mr. Rajiv Sharma, Advocates
for the respondents.

JASWANT SINGH, J.

The petitioner, while working as Depot Store Keeper Grade-III in the Railways Department, was suspended on 05.09.1988 and disciplinary proceedings for imposition of major punishment were initiated for misconducts of financial irregularities. The disciplinary proceedings culminated into passing of an order of punishment of removal from service on 30.08.1995 (**Annexure P-3**); the statutory appeal and revision filed by the petitioner were dismissed. The matter was taken before the Central Administrative Tribunal (for short “the Tribunal”), which vide order dated 19.07.2002 (**Annexure P-2**) converted the order of removal into the order of compulsory retirement on account of 32 years of previous service of the petitioner. The said order passed by the Tribunal was upheld by a Division Bench of this Court vide order dated 20.02.2014 (**Annexure P-1**). During the pendency of the writ petition before this Court, concededly, operation of the order passed by the Tribunal had remained stayed.

The Railways Department/employer accepted the judgment dated 20.02.2014 (**P-1**) passed by this Court, which mandated to release the admissible retiral benefits as per the Rules within maximum period of one month from the date of the order.

The claim of the petitioner is that the payments have been released in the year 2014, after the substitution of the order of removal by order of compulsory retirement by the learned Tribunal on 19.07.2002 (**P-2**) and, therefore, is entitled to the interest payable with effect from the date of compulsory retirement i.e. 30.08.1995. Secondly, it is claimed that the petitioner is also entitled to full salary for the suspension period w.e.f. 05.09.1988 till 30.08.1995 i.e. the date of compulsory retirement.

The stand of the Bank is that, firstly, the present contempt petition is not maintainable as the jurisdiction under Section 17 of the Contempt of Courts Act, 1971 vests with the Administrative Tribunal itself regarding violation of the orders passed by the CAT, upheld by this Court. Secondly, the cause of action for grant of retiral benefits accrued only after the order dated 19.07.2002 (**P-2**) passed by the Administrative Tribunal and upheld by a Division Bench of this Court vide order dated 20.02.2014 (**P-1**) subject to the petitioner fulfilling the formalities for release of retiral benefits.

It is asserted that the minor delay has occasioned because of the non-cooperative attitude of the petitioner. It is next submitted that since the order of punishment has been upheld, albeit substituted, therefore, the petitioner was not entitled to full salary for the suspension period, however, the same has been appropriately considered in accordance with law.

After hearing learned Counsel for the parties, no further action is warranted.

It is conceded position that the suspension period has been treated as a "leave without pay" as no extra ordinary leave was available in the credit of the petitioner. Secondly, as per the order dated 20.02.2014 (**P-1**) passed by this Court, the formalities were required to be fulfilled by the petitioner as per

attributed to the department. Thus viewed, no willful disobedience is made out.

Accordingly, the present petition stands dismissed.

Since the contempt petition stands dismissed, the pending applications, if any, shall also stand disposed of.

January 18, 2017

Gagan

(JASWANT SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>