

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.13388 of 2011 (O&M)

Date of Decision: 3.3.2017

Yashwant Rao Behmani

... Petitioner

Versus

Punjab and Sind Bank and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioner

Mr.I.P.Singh, Advocate for respondents no.1 to 3

RAJIV NARAIN RAINA, J. (Oral)

1. Despite request made by Mr. H.C.Arora, learned counsel for the petitioner on 14th February, 2017 complaining that this matter has been pending since 2011 and only a short point is involved and, therefore, an early date may be fixed for final disposal. On his request, the matter was adjourned for today for final disposal, but he has not cared to appear and to assist this Court. I have, therefore, heard Mr. IP Singh, learned counsel for the respondent-Bank.

2. On 28th July, 2011, notice of motion in this case was restricted to consider the right of the petitioner to receive retiral benefits arising out of removal from service with superannuation benefits as would have been due at that stage but without removal being a disqualification for future

employment under the State. The motion Bench heard the matter and restricted the case to the short point as to whether the petitioner was entitled to retiral benefits.

3. Mr.I.P.Singh, learned counsel appearing for the respondent-Punjab & Sind Bank candidly submits that the Bank at no time had withheld retiral benefits. It is only the petitioner who never came forward to receive his retiral dues from the Bank since he was aggrieved by the removal order and had approached this Court by filing this petition challenging the order of removal and in the alternative he sought retiral benefits.

4. In view of the interim order, the first issue is foreclosed since notice of motion has been issued on the short point of retiral benefits when the challenge to the removal order has constructively failed at the motion stage.

5. Mr.IP Singh further submits that as and when the petitioner approaches the Bank and completes the codal formalities for payment, the retiral benefits will be released to the petitioner within a period of six weeks from the date of submission of the complete paper-work as per regulations.

6. Learned counsel has produced a copy of the Bipartite Settlement dated 25th July, 2002 in Court which is taken on record. He refers to Clause 6 which deals with a situation where an employee is found guilty of gross misconduct. Various punishments are enumerated in the range of penalties which can be imposed by the Bank including Sub Clause (b) of Clause 6 which provision applies to this case. The said provision reads as under:-

“6 An employee found guilty of gross misconduct may:

(a) XXX XXX XXX

(b) be removed from service with superannuation benefits i.e. pension and/or Provident Fund and Gratuity as would be due otherwise under the Rules or Regulations prevailing at the relevant time and without disqualification from future employment; or”

7. Having regard to the nature of the removal order passed, I find no legal infirmity therein or any error once the penalty was inflicted after enquiry where the grave charges were proven by evidence adduced in the departmental proceedings. It may be mentioned that the removal order was challenged in reference proceedings before the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh who has upheld the enquiry as fair and proper in the order deciding the preliminary issue whether the enquiry was conducted in a fair and proper manner, and thereafter the Court proceeded to examine the removal order on merits and the issue of quantum of punishment in which work I see no flaw of reasoning. Moreover, a lenient view was taken by the Management for gross misconduct whereas they could well have dismissed the petitioner from service.

8. In his alternative prayer, the petitioner has asked interest on delayed release of superannuation benefits, but that prayer has to be rejected because he took his chances in litigation and refused to receive the amounts towards terminal benefits when he could easily have done so under protest and without prejudice to his rights against the removal order. Therefore, no interest is allowable on the principal amount.

9. In view of the above position, this petition is disposed of with a direction to the petitioner to help in completing the codal formalities for receiving terminal benefits and on completion of paper-work by the

petitioner, the retiral benefits would be released to the petitioner within a period of six weeks from the date of submission of the docket by the petitioner. This petition stands disposed of accordingly.

3.3.2017
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No