

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 10025 of 2014 (O&M)

Date of decision: 27.03.2017

Jagdish Chander

... Petitioner

versus

The State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Gaurav Sharma, Advocate for
Mr. Amit Chopra, Advocate for
for the petitioner.

Mr. Keshav Gupta, AAG 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)

Present petition has been filed under Articles 226/227 of the Constitution of India for issuance of writ of certiorari quashing the impugned order dated 10.10.2013 (Annexure-P22) vide which a cut of 10% pension for 5 years was imposed and for mandamus directing the respondents to release the annual increment of the petitioner w.e.f. 01.07.2010 and also grant the selection grade w.e.f. 05.09.2010 on completion of 5 years of service as Divisional Wildlife Officer.

Petitioner was working as a Divisional Inspector Wild Life in the Department of Wild Life Preservation, State of Haryana and superannuated on 31.05.2011. It comes out that during his service, he was served with chargesheet dated 05.08.2010 wherein three allegations were levelled against him. Firstly, that on 30.04.2010 stray dogs forcibly entered in Meham Deer Sanctuary and killed 10 deers.

Secondly, the petitioner vide order dated 04.05.2010 was directed to immediately shift the remaining deers and Neel Cow to Mini Zoo, Rohtak but he had not complied with the orders of Chief Wild Life Warden, Haryana, Panchkula and with the result that on the night of 06.05.2010 remaining 4 deers were also killed by the stray dogs. Thirdly, 10 black deers earlier died, were not properly buried by dugout and as a result of which stray dogs were attracted to the park and killed the remaining deers.

During the enquiry, two charges were proved whereas 3rd charge was not proved. Enquiry officer accordingly submitted the report dated 08.04.2013 (Annexure-P21) and thereafter, final show-cause notice along with copy of inquiry report was issued to him. He was given the chance of personal hearing on 20.06.2013. Thereafter, the punishment order dated 10.10.2013 (Annexure-P22) was passed whereby a 10% cut in pension of the petitioner for five years was imposed.

The petitioner claimed that the said punishment order dated 10.10.2013 (Annexure-P22) is illegal and liable to be quashed. However, claim of the petitioner is for grant of annual increment which was due on 01.07.2010. He claimed for grant of selection grade w.e.f. 05.09.2010 on completion of five years of service as Divisional Wild Life Officer. Another claim is for release of gratuity to the tune of Rs. 5,35,000/- with interest.

State in the reply has taken the stand that annual increment has been released to the petitioner w.e.f. 31.12.2010 vide Annexure.R1, gratuity amounting to Rs. 5,31,432 has already been released on 14.08.2014. Regarding selection grade, the petitioner does not fulfil the requisite qualification for the post of Deputy Chief Wildlife Warden.

In the replication, petitioner has stated that though gratuity has ordered to be released but the same has not been paid to him till date.

I have heard learned counsel for both the parties and perused the file carefully.

So far as the release of the annual increment is concerned, the same has already been released w.e.f 31.12.2010, therefore, prayer qua the said relief becomes infructuous. Regarding the gratuity, the State claims that the gratuity amounting to Rs. 5,31,432 has been released on 14.08.2014, however, petitioner has denied it. He has produced the copy of the passbook today in the Court showing that no such amount was ever credited to his account. The State has claimed that since the enquiry was concluded, punishment order was passed on 10.10.2013 (Annexure-P22), therefore, gratuity which was withheld was released thereafter. In the circumstances, State shall verify the exact date on which amount was credited to the account of the petitioner and, if it is found due, the same shall be released with interest @ 9% starting three months from the date of punishment order i.e. 10.10.2013, till the payment.

Now coming to the issue of gratuity and selection grade, the respondents have taken the stand that the petitioner does not fulfil the requisite qualification for the post of Deputy Chief Wildlife Warden. Therefore, he is not entitled to selection grade. However, during arguments, learned counsel for the petitioner has shifted his stand and stated that it is not claiming the selection grade but the time scale, which is admissible after five years of service. In these circumstances, petitioner is directed to make proper representation to the respondents regarding release of time scale and the State shall pass a speaking order on the same within two months from the date of receipt of the said representation.

Now, coming to the punishment order dated 10.10.2013 (Annexure-P22), I am of the view that the petitioner while working as Divisional Inspector Wild Life in Meham Deer Sanctuary failed to discharge his duties properly and as a result of which 10 deers were

killed by stray dogs. Despite the warning to take proper care, which he did not do. Resultantly, remaining 10 deers were also killed by stray dogs. In this way, total 14 deers were killed, which is a serious matter. Petitioner was the incharge of the Meham Deer Sanctuary and it was his duty to take care of the Sanctuary to avoid such incidents.

Therefore, in these circumstances, the punishment of cut of 10% pension for five years cannot be called harsh and was otherwise rightly passed.

It being so, in view of the above findings, present petition is partly allowed and partly dismissed.

(KULDIP SINGH)
JUDGE

27.03.2017

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Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No