214 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10934 of 2014(O&M)
Date of decision : 19th January, 2017

Surinderjit Singh Narang .... Petitioner

Versus

The State of Punjab and others ...... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. A.S.Bedi, Advocate
for the appellant.

Ms. Vandana Malhotra, Additional Advocate General, Punjab.

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KULDIP SINGH J. (ORAL)

The petitioner retired as Sub Divisional Officer from the Irrigation Department, State of Punjab. The prayer in the present petition is for directing the respondents to release the pension and D.C.R.G. The petitioner superannuated from service on 30.09.2002, on attaining the age of superannuation.

Learned counsel for the petitioner states that 100% provisional pension has been allowed. Leave encashment has been paid and only Death-cum-Retirement Gratuity has been withheld by the respondents.

On behalf of the respondents, it is stated that one FIR was registered against the petitioner which is stated to have now been cancelled. It is further stated that petitioner had issued some forged work orders for which vigilance inquiry has been recommended. It is further claimed that another FIR has been registered against the petitioner in the year 2015. However, it is not disputed that from the year 2002, till date, neither any charge sheet has been served upon the petitioner nor any departmental proceedings have been initiated. Learned counsel for the petitioner further stated that one charge sheet was issued on 16.04.2004 which was dropped on 04.02.2009. The petitioner retired on 30.09.2002 and for 14 years, the department cannot withhold the Death-cum-Retirement Gratuity only on the ground that now an FIR has been registered in the year 2015 against the petitioner. The gratuity was required to be released within 3 months from the date of retirement. Therefore, the action of the respondent in withholding the gratuity is illegal.

Accordingly, the gratuity is also to be released to the petitioner forthwith with interest at the rate of 9% per annum starting three months from the date of retirement till the date of payment. The provisional pension allowed to the petitioner shall also be revised as per the scale as applicable to the other similar situated employees. As the petitioner is being paid 100% provisional pension, therefore, it cannot be kept provisionally for more than 14 years, therefore, in place of provisional pension, regular pension be paid as per the pay scales. However, if the department subsequently issue a charge sheet and some fault or financial loss to the respondent is found, the Department will be at liberty to take action in accordance with law.

The petition is allowed, accordingly.

(KULDIP SINGH)
JUDGE

19th January, 2017
hemlata

Whether speaking / reasoned Yes

Whether Reportable No