

CWP No.10583 of 2015

[1]

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

Sr. No.281

Civil Writ Petition No.10583 of 2015

DECIDED ON: November 01, 2017

RAMESHWAR DASS MITTAL

..PETITIONER

VERSUS

**STATE OF PUNJAB THROUGH SECRETARY, DEPARTMENT
OF RURAL DEVELOPMENT & PANCHAYATS, CIVIL
SECRETARIAT, CHANDIGARH AND OTHERS**

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. C.L. Sharma, Advocate,
for the petitioner.

Ms. Jasleen Kaur Sidhu, Assistant Advocate General, Punjab.

JASPAL SINGH, J.

Through the instant civil writ petition preferred under Article 226 of the Constitution of India, petitioner has sought issuance of a writ in the nature of Certiorari for quashing/setting aside order dated 22.04.2015 (P-3), whereby his pay has been reduced w.e.f. 01.07.1986 onwards i.e. from the date 28 years prior to date of retirement while scrutinising his pension case AS WELL AS seeking direction to the respondents to pay his

CWP No.10583 of 2015

[2]

retiral benefits along with interest @ 24% per annum from the due date till actual payment.

2. In response to notice of motion issued to the respondents vide order dated 25.05.2015, learned State counsel appeared and case was adjourned time and again at his request. Vide order dated 23.01.2017, respondents were granted last opportunity to file reply within three weeks with an advance copy to opposite counsel with further direction that in case, reply is not filed within three weeks, to pay cost to the tune of Rs.10,000/- to the petitioner and matter was adjourned to 17.05.2017. However, on 17.05.2017, though costs were paid yet reply was not filed and accordingly, defence of respondents was struck off.

3. Learned counsel for the petitioner has evidently argued that impugned order dated 22.04.2015 (P-3) is not only against the Rule 9.4 (b) (iii) of Civil Service Rules Volume II (for short 'Service Rules') but also against the principles of natural justice.

4. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner and have perused the relevant rules as well as other documents available on file.

5. A glance at the impugned order dated 22.04.2015 (P-3) transpires that pay of the petitioner has been re-fixed and it was reduced w.e.f. 01.07.1986 after the expiry of three decades, that too, only after the retirement of the petitioner. For the period of entire service of petitioner, no such action was taken for correctness of emoluments being drawn by him was verified by the respondents. As per above referred Rules, the head office may verify the correctness of emoluments for the period of 24

CWP No.10583 of 2015

[3]

months preceding the date of retirement of a Government employee and not for any period prior to it. Be that as it may, one thing is evident that petitioner was not afforded any opportunity of hearing while re-fixing his salary as well as pension. For this sole reason, impugned order dated 22.04.2015 (P-3) is not sustainable in the eyes of law and deserves to be set aside. Consequently, order dated 22.04.2015 (P-3) is hereby set aside.

6. Another relief claimed by the petitioner through instant petition is with regard to issuance of direction to the respondents to pay his retiral benefits along with interest. The respondents have not come forward to disclose as to whether all the retiral benefits have been released/disbursed to the petitioner after his retirement or that there was any lapse or omission attributable to the petitioner for non-releasing of retiral benefits immediately on the date of his retirement. It has become clear that retiral benefits have not been released either on the date of his retirement i.e. 30.06.2014 or subsequent thereto for a reasonable period of three months.

7. In this regard, instant petition is disposed of with the direction to the respondents to make the payment of retiral benefits, if any due along with interest @ 9% per annum after the expiry of three months from the date of his retirement till actual payment and further to disburse the amount, if any, withheld by the respondents on account of order dated 22.04.2015 (P-3), within a period of two months from the date of receipt of certified copy of this order.

CWP No.10583 of 2015

8. In case of non compliance of aforesaid direction, petitioner shall be entitled interest @ 9% per annum from the date of filing of instant petition till actual payment.

November 01, 2017
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No