

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

CWP No. 11105 of 2015 (O&M)
Date of Decision: 25.04.2017

RAJ KUMAR JANGRA

... Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Deepak Sabherwal, Advocate,
for the petitioner.

Mr. Anshul Gupta, AAG, Punjab.

KULDIP SINGH, J. (Oral)

The petitioner has invoked the writ jurisdiction under Article 226/227 of the Constitution of India for issuance of writ in the nature of certiorari for quashing of impugned order dated 04.03.2014 endorsed on 06.03.2014 (*Annexure P-23*) passed by the respondent No. 1 vide which a cut @ 20% in the pension of the petitioner has been imposed for the next 10 years. The prayer has also been made for issuance of writ in the nature of mandamus directing the respondents to release retiral benefits i.e. gratuity and commutation etc. alongwith interest.

Learned counsel for the petitioner has informed this Court that during the pendency of the present petition, all the retiral benefits were released, therefore, he confine his prayer for grant of interest on the delayed payment of the retiral benefits in addition to the quashing of order dated 04.03.2014 endorsed on 06.03.2014 (*Annexure P-23*).

Brief facts of this case which are required to be noticed for the purpose of disposal of the present writ petition are that petitioner has joined as a Temporary Engineer in Department of Irrigation, Punjab, Chandigarh on

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11.07.1979. It comes out that on 19.01.2005, the Departmental Promotional Committee found the petitioner fit for promotion and cleared his name for promotion. However, he was not promoted though his juniors were promoted to the post of Executive Engineer and vacancies were also available. However, after submitting seven representations, the petitioner was promoted only on 19.12.2006 and ultimately retired from service on 31.03.2010 on attaining the age of superannuation. During his service, the petitioner has submitted an affidavit dated 28.11.2006 (*Annexure P-2*) alongwith letter dated 20.02.2007 (*Annexure P-3*), addressed to Gurinderjit Singh Sandhu, Financial Commissioner (Development & Cooperation), Punjab (the then Principal Secretary, Department of Irrigation, Punjab) complaining about falsification of the Government's record regarding his promotion in which he levelled allegations against some other officers also. Subsequently, he also address a letter dated 03.09.2007 (*Annexure P-5*) whereby it is stated that when the said officer was posted as Principal Secretary, Department of Irrigation, Punjab, the petitioner has written number of representations to him but the said officer never responded to his representations and the officer willfully denied him promotion in connivance with others, in spite of the fact that he was eligible for promotion and found fit for promotion by the Departmental Promotion Committee on 19.01.2005. It is further stated that sufficient vacancies were also available and he was acquitted of all the charges by the Special Judge, Patiala vide order dated 04.03.2005 and that he was not promoted on 19.01.2005 alongwith his juniors. The Department, subsequently, issued him a charge-sheet dated 09.07.2008 (*Annexure P-6*) i.e.

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during his service, wherein regarding the said affidavit and letter following three charges were leveled against him: -

1. You have filed false affidavit so action is liable to be taken under IPC, Clause 182 against you.
2. You have leveled false and baseless charges against officers that they have presented twisted office record and your promotion was stalled in an illegal manner.
3. You have tried to take advantage by indiscipline, insubordination, defame officers by making wrong statements and by leveling allegations on the officers which is against the conduct Rules.

After getting the reply and finding it to be unsatisfactory, an Enquiry Officer namely M.S. Oberoi, IAS was appointed, who submitted an enquiry report dated 13.12.2010 (*Annexure P-15*). In the said enquiry, charge No. 1 was not proved whereas charges No. 2 and 3 were found to be proved. Thereafter, on the basis of the said enquiry report, impugned order dated 04.03.2014 endorsed on 06.03.2014 (*Annexure P-23*) was passed imposing a cut in basic pension @ 20% for the next 10 years against the petitioner, who stands already retired by that time.

In the reply, the respondents have submitted that the charge-sheet was served upon the petitioner as he tried to take advantage by indiscipline, insubordination, defame officers by making wrong statements and by pressurizing the officer which is against the conduct Rules. It was stated that in the enquiry, the charges have been proved and punishment was accordingly awarded to the petitioner which is as per Rules.

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I have heard the learned counsel for both the parties and have carefully gone through the case file.

The perusal of the charges shows that the charges regarding filing of false affidavit was found to be not proved. The perusal of the affidavit dated 28.11.2006 (*Annexure P-2*) shows that while addressing the letter to the then Principal Secretary, Department of Irrigation, who happens to be Gurinderjit Singh Sandhu, IAS at that time, it was stated that the official records/facts were falsified and only 32 vacancies were depicted by misrepresenting the facts on the file instead of 38 actually existing available vacancies so as to block the promotion of the petitioner. In spite of availability of 32 vacancies, the Department actually filled only 31 vacancies on 19.01.2005. It was further stated that 6 vacancies of Assistant Professor existing in DIPR, Amritsar, which were not taken into consideration deliberately in utter disregard of factual position. Some other facts were also referred to. The charges leveled regarding the said affidavit is found to be not proved. Now, the letter dated 20.02.2007 (*Annexure P-3*), which is the basis of charges No. 2 and 3, shows that it is mere a complaint to Gurinderjit Singh Sandhu, who was the then posted as Principal Secretary, Irrigation Department, Punjab that he had not responded to his letters/representations and denied him promotion in connivance with others in spite of the fact that he was eligible for promotion. The letter dated 20.02.2007 (*Annexure P-3*) further shows that it is just a sort of grievance made to the functionary of the Government, who was the then posted as Principal Secretary, Irrigation Department, Punjab. When an employee has been denied promotion and he brings more facts to the notice of the higher authorities stating that the facts

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were twisted and wrong statement and facts were presented and he was denied promotion, it cannot be called an act of indiscipline as the petitioner was just pursuing his case for his due promotion. In fact, by slapping a charge-sheet upon the petitioner, the superiors of the petitioner wanted to shut his mouth and also tried to teach him a lesson for pointing out certain discrepancies and misrepresentation of facts which will also act as a warning to other subordinate employees that even if some excess is committed upon them, they should remain silent and should not report to the higher authorities. This is nothing but misuse of the powers by the respondents-authorities. The petitioner despite being cleared by the Departmental Promotion Committee, was not promoted and was pursuing his case. Therefore, bringing certain facts to the notice of higher authorities cannot be called an act of insubordination. He pointed out certain facts and figures which may or may not be correct. These are to be verified with the record which was with the Department.

Therefore, I am of the view that the charge-sheet dated 09.07.2008 (*Annexure P-6*) is nothing but misuse of process of the law/rules. Consequently, the enquiry held by IAS Enquiry Officer holding the petitioner guilty for speaking out against another IAS officer is nothing but misuse of process of law and Rules. Consequently, punishment order dated 04.03.2014 endorsed on 06.03.2014 (*Annexure P-23*) passed after retirement of the petitioner imposing 20% cut in his basic pension for the next 10 years is also found to be misuse of powers.

As such the impugned punishment order dated 04.03.2014 endorsed on 06.03.2014 (*Annexure P-23*) alongwith consequential

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proceedings stands quashed. The result will be that the petitioner is held entitled to interest on the arrears, if any, @ 9% per annum.

Regarding the payment of some other arrears, it comes out that the petitioner retired from service on 31.03.2010 and the retiral benefits were released on different dates during the pendency of the present writ petition. Since, the charge-sheet is held to be misuse of process of law and the punishment order is quashed, therefore, there is no justification for delaying the payment of his retiral benefits merely on account of the fact that an ego of one IAS officer was got hurt by a letter written by the petitioner to him. Consequently, the petitioner will also be entitled to interest @ 9% per annum on the other retiral benefits released with delay starting three months from the date of retirement of the petitioner till actual payment.

Accordingly, present petition stands allowed.

April 25, 2017

Suresh Kumar

**(KULDIP SINGH)
JUDGE**

Whether speaking / reasoned :

✓
Yes / No

Whether Reportable :

✓
Yes / No