

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13449-2014 (O&M)
Date of decision: 24.05.2017

Hans Raj

.....Petitioner

versus

Registrar, Cooperative Societies, Punjab and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Ms.Jagdeep Bains, Advocate for the petitioner
Mr.R.S.Pathania, DAG Punjab

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Petitioner retired as an Inspector Cooperative Societies Rooranwali, Malout under the office of the Assistant Registrar, Cooperative Societies, Malout on 30.9.2012 vide order dated 21.9.2012 (Annexure P1).

It comes out that one Jaswinder Singh has filed a complaint under Section 12 of the Consumer Protection Act, 1986 before Deputy Registrar, Cooperative Societies, Muktsar on 9.5.2011, regarding insurance claim. The matter was decided against respondent nos.3, 4 and 5 in the said case vide order dated 3.10.2011 (Annexure P2). However, it comes out that in the appeal, Insurance Company stated to have paid the entire amount. Thereafter, a charge sheet dated 11.4.2014 (Annexure P7) was served upon the petitioner under Rule 2.2(b) of the Punjab Civil Services Rules Volume II levelling allegations of misappropriation of record handed over to him by the office of Deputy Registrar, Cooperative Societies, Muktsar. On this

account, the petitioner has challenged the said charge sheet (Annexure P7) as illegal and against the rules. He has also sought for the release of gratuity of Rs.8 lacs withheld by the respondents pending the inquiry.

After hearing learned counsel for both the parties, I am of the view that so far as charge sheet is concerned, the matter is yet to be inquired into. The department could hold an inquiry under Rule 2.2(b) of the Punjab Civil Services Rules Volume II regarding the action of the petitioner, four years before the said charge sheet. After considering the reply, it is not deemed proper to comment on the merits of the inquiry, as the same will prejudice the final outcome of the inquiry.

It being so, I do not find any ground to quash the charge sheet dated 11.4.2014 (Annexure P7) at this stage.

In the circumstances, the respondents are directed to proceed with the inquiry and decide the same in accordance with law within a period of six months from the date of receipt of a certified copy of this order.

Now, the further question would arise as to whether the gratuity of the petitioner could be withheld or not?

The petitioner retired from service on 30.9.2012. Charge sheet was served upon him on 11.4.2014 i.e. after more than one and half years of the said retirement. The gratuity is otherwise required to be released immediately on the retirement. It goes to show that the gratuity of the petitioner was probably not released immediately on account of the impending charge sheet. Petitioner is getting provisional pension and if the department finds that the charges are proved, they are always at liberty to impose a cut in the pension. However, the gratuity of the petitioner cannot be withheld for indefinite period on the basis of the charge sheet which is

issued after more than one and half years of his retirement.

Accordingly, the present writ petition is partly allowed to the extent that the gratuity of the petitioner is ordered to be released with interest @ 9% per annum starting three months from the date of retirement till the date of actual payment.

24.05.2017

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No