

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-258-2012 (O&M)
Date of decision: 23.01.2017

Kesar Singh

.....Petitioner

versus

Uttar Haryana Bijli Vitran Nigam Limited and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Naveen Daryal, Advocate for the petitioner
Mr.Deepak Balyan, Advocate for the respondents

- 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?*

Kuldeep Singh, J. (Oral)

Petitioner was working under the respondent Uttar Haryana Bijli Vitran Nigam Limited (in short, 'UHBVNL'). He retired on 31.5.2009. It comes out that the petitioner was served with a charge sheet on 22.9.2010. His retiral benefits were withheld. As per the latest position, as narrated by the respondent in the various affidavits, and as stated at bar, now GPF, leave encashment and commuted value of pension has been released to the petitioner and 75% of the provisional pension has also been released. Now only gratuity amounting to around Rs.5 lacs and regular pension is left to be released.

The stand of the respondent is that four charge sheets were served upon the petitioner, in which departmental inquiry was held and vide order Annexure R1, inquiry report was submitted. Thereafter, he was given

personal hearing on 31.5.2016 and now four punishment orders (Annexure

R2 (colly) have been passed i.e. vide order dated 9.6.2016, recovery of Rs.2,91,338/- has been ordered; vide punishment order dated 9.6.2016 recovery of Rs.21,269/- has been ordered, vide order dated 9.6.2016 recovery of Rs.27,517/- has been ordered and vide the order dated 27.6.2016 recovery of Rs.78,000/- has been ordered.

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

The perusal of the alleged inquiry report (Annexure R1) shows that the inquiry officer after enumerating the allegations leveled in the said four charge sheets dated 5.8.2010, 2.2.2012, 7.6.2013 and another charge sheet dated 7.6.2013, has noticed that the respondent has not turned up despite various notices, therefore, he was proceeded against ex-parte and the inquiry was adjourned to 19.3.2015, for ex-parte evidence. It shows that the inquiry was adjourned for recording ex-parte evidence.

Learned counsel for the respondent was pointedly asked as to where are the findings of the ex-parte inquiry. However, on instructions from Rajesh Kumar, he has fairly conceded that except Annexure R1, there is no inquiry report on file. As per Annexure R1, case was merely adjourned for ex-parte evidence. Therefore, there is no document on the file to show that in pursuance to the alleged ex-parte inquiry, any final report, any show cause notice or punishment was given to the petitioner. There is only one letter dated 25.5.2016, in which, petitioner was called for personal hearing. Thereafter, the punishment order Annexure R2 (colly) enumerated above, have been passed.

Since said inquiries were not concluded and no final inquiry report was submitted, therefore, on the basis of the non-existing inquiry

report, punishment orders Annexure R2 (colly) are bad in the eyes of law and are hereby quashed. The respondents are directed to release the complete pension of the petitioner along with the complete gratuity. However, liberty is given to the department to conclude the inquiry in accordance with law and thereafter, if they so desire and pass the order after following the rules. Needful be done within three months. Petitioner shall also be entitled to interest @ 9% per annum on the delayed payment starting three months from the date of retirement till the date of payment.

Petition stands allowed in above mentioned terms.

23.01.2017

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No