IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 2393 of 2015 (O/M)
Date of decision : 17.4.2017

Hans Raj .... Petitioner (s)

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others .... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. K.L. Dhingra, Advocate, for the petitioner.

Mr. R.S. Longia, Advocate, for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner was working as an Assistant Foreman on a Group 'C' post when he retired on 31.10.2012 after rendering more than 33 years of service. The petitioner is aggrieved of the fact that vide letter dated 10.7.2014 (Annexure-P-2), a sum of Rs. 3,97,776/- has been deducted out of DCRG without issuing any show cause notice or chargesheet. He seeks the quashing of the said letter dated 10.7.2014 (Annexure-P-2) The petitioner further claims that some of the payments were released with delay. He retired from respondent-department on 31.10.2012 and his pension was sanctioned on 14.7.2014 (Annexure-P-1) and that another sum of Rs. 5,47,734/- on account of DCRG was also sanctioned on 10.7.2014, vide letter dated 10.7.2014 (Annexure-P-2). Out of this only, Rs. 1,49,958/- was released and the remaining amount of Rs. 3,97,776/- was withheld. Further, a sum of Rs. 3,83,853/- on account of commutation of pension was released on 10.7.2014, vide letter dated 10.7.2014 (Annexure-P-3) i.e. after more than 21 months of the retirement of the petitioner. Out of the DCRG, an amount of Rs. 3,97,776/- is yet to be released. The petitioner claims interest on the said delayed payments.

In the written statement, respondents have taken the stand that the petitioner was issued a chargesheet on 25.11.2011 (Annexure-R-1). After considering the explanation of the petitioner, the same was dropped, vide order dated 22.5.2014 (Annexure-R-2) and thereafter, the payments were processed and released promptly. Regarding the withholding of a sum of Rs. 3,97,776/-, it was stated in the written statement that no show cause notice was required to be issued. It was stated that the said amount is on account of shortage of material and transformer oil and the amount was deducted as per the request of the petitioner himself (Annexure-R-3). The said articles were stated to be in his charge.

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

So far as withholding of Rs. 3,97,776/- out of the DCRG is concerned, respondents have produced on file the writing off shortage of material proformas, running into several pages, submitted by the petitioner and duly signed by him, wherein he has mentioned the quantity, amount and requested for writing off certain amount and also mentioned recoverable amount. It is signed by the petitioner himself on 7.12.____ and 10.12. _____ (most of them are of 7th December and year not mentioned and some of them are of 10th December and year not mentioned). It has been argued on behalf of respondents that since the petitioner himself submitted the shortage of material in his control and requested for writing off certain amount out of the said shortage as per the instructions and also mentioned the recoverable amount, therefore, as per the request of the petitioner himself, the said amount has been recovered. The contention has been controverted by the learned counsel for the petitioner, stating that all the proformas were signed on two different dates and that the petitioner is an illiterate person. He has also referred to some other cases where some shortage were written off.

After going through the proformas (Annexure-R-3 Colly.), I am of the view that the said proformas were filled in by the petitioner himself, mentioning the material and recommending the writing off certain parts of the shortage and the amount recoverable. Therefore, as per the amount mentioned to be recoverable, the recovery has been effected. Therefore, for such recovery, no show cause notice was required to be issued.

The petitioner has not challenged the proformas (Annexure-R-3 Colly), stating that these were obtained by coercion or by undue influence. Therefore, the plea of being an illiterate person is not available. Therefore, the recovery effected as per the request of the petitioner did not require the prior show cause notice. Therefore, the prayer for directing respondents to pay Rs. 3,97,776/- is declined.

Now, coming to the payment of delayed payments, it comes out that the payment of pension, commutation of pension and DCRG were released on 14.7.2014 and 10.7.2014 respectively i.e. after a delay of about 21 months. The plea of respondents is that a chargesheet was issued to the petitioner on 25.11.2011 (Annexure-R-1) and that the same was dropped on 22.5.2014, after obtaining the explanation, vide order Annexure-R-2. Therefore, the payments were processed later on.

I am of the view that if the chargesheet was issued on 25.11.2011, the same was required to be decided expeditiously. The department cannot keep the same pending for about three years and then drop the same. Therefore, for the delayed payments, the department is to be held responsible. Since the department has kept the amount of the petitioner, therefore, the department is liable to pay the interest. Therefore, starting three months from the date of retirement of the petitioner till the payment, respondents shall be liable to pay interest at the rate of 9% per annum on the delayed payments made on 10.7.2014 and 14.7.2014. The interest on the delayed payments be released to the petitioner within three months from the date of receipt of certified copy of this order.

In view of the matter, the present writ petition is partly allowed.

(KULDIP SINGH)
JUDGE

17.4.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No