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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 5476 of 2015 (O/M)
Date of decision : 17.4.2017

Mange Ram

..... 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 retired from service as an Assistant Foreman, (Group 'C' post) on 30.9.2011. The petitioner claims that out of retiral benefits, a sum of Rs. 1,25,191/- was withheld without issuing any show cause notice or the chargesheet. It is further claimed that the pension, pension arrears, DCRG (part payment) and commutation were released on 9/10.4.2013 with a delay of 19 months. The petitioner claims the interest on the same.

In the short reply, respondents have taken the stand that first chargesheet dated 30.8.2011 (Annexure-R-1) was pending against the petitioner. After getting explanation, the same was dropped on 27.2.2012, vide order Annexure-R-2. The second chargesheet dated 5.1.2012 (Annexure-R-3) was served upon the petitioner, which was also dropped, vide order dated 25.4.2012 (Annexure-R-4). Regarding the deduction, it

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was stated that there was shortage of material to the tune of Rs. 3,48,674/-, vide Annexure-P-5. As per instructions dated 15.2.2005 (Annexure-R-6), maximum 5% of the existing cost of spare parts was written off and in case of shortage of transformer oil, the competent authority could write off upto 20% of the total cost of the same. Therefore, 5% of the cost of the spare parts and 20% of the shortage of transformer oil was written off and a sum of Rs. 1,25,191/- was recovered from the arrears of his pension payment order. The balance of Rs. 49,445/- and another sum of Rs. 12,862/- in terms of the judgment of the Civil Court dated 7.11.2011 (Annexure-R-8 Colly.), passed by the learned Civil Judge (Senior Division), Guhla, have been recovered in installments of Rs. 5,000/- per month. All the payments were released without further delay.

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

So far as the recovery is concerned, it comes out that the petitioner himself filled in proformas (Annexure-R-5 Colly.), showing the shortage of amount, which is claimed to be written off and the amount recoverable is also mentioned. The petitioner signed several proformas in English. Therefore, as per the proformas submitted by the petitioner, the recoveries were effected, for which no show cause notice was required to be issued. The amount recovered on account of civil court decree can also be recovered. Therefore, there is nothing illegal in withholding a sum of Rs. 1,25,191/- out of the retiral benefits.

So far as the payments are concerned, two chargesheets in this case are stated to have been issued. The first chargesheet was issued on 30.8.2011 (Annexure-R-1) and the same was dropped on 27.2.2012, vide

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Annexure-R-2. The second chargesheet was issued on 5.1.2012 (Annexure-R-3) and the same was dropped on 25.4.2012, vide order Annexure-R-4, which means that there was no substance in the said chargesheets as the explanation of the petitioner in both the chargesheets was found to be satisfactory. Therefore, the petitioner is not responsible for the delay in payment. The department has used the amount due to the petitioner. Therefore, starting three months from the date of retirement till the payment, the petitioner shall be entitled to interest at the rate of 9% per annum on the delayed payments of the retiral benefits, which were actually released on 9/10.4.2013. The interest be released 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