

CWP No. 12810 of 2014
DECIDED ON: FEBRUARY 20, 2018

....PETITIONER

....RESPONDENTS

Through the instant petition, petitioner has sought for the issuance of a writ in the nature of certiorari seeking quashing of revised consolidated No Demand Certificate attached with letter dated February 21, 2013 (P-2) vide which an amount of ₹1,40,087/- has been shown to be outstanding against him (petitioner) without any rhyme and reason with further direction for the issuance of a writ in the nature of mandamus directing the respondents to release the withheld amount of gratuity/DCRG and commutation of pension amounting to ₹1,40,087/- and an amount of ₹44,110/- (deducted from the pay of the petitioner

without any reason) along-with interest @18% per annum further direction to grant interest @18% per annum on the delayed payment(s) of pensionary benefits.

2. At the very outset, it has emerged that the same question came up for hearing before this Court in CWP No. 8580 of 2014, titled as ***Phool Kumar vs. State of Haryana & others***, decided on January 24, 2018. Learned counsel for the petitioner has also given the reference of the judgment rendered by this Court in CWP No. 9378 of 2008, titled as ***Kasturi Lal s/o Krishan Lal vs. U.H.B.V.N. Ltd & others***, decided on November 12, 2010. After discussing the afore-said judgments, this Court came to the following conclusion:

“At the most, if at all, respondents could have proceeded against the petitioner under the provisions of Rules 2.2 (a) (b) of the Haryana Civil Services Rules but for that reasons they are suggested to establish that those rules are applicable upon the petitioner. However, in the instant case even no such action under Rule 2.2 (a) (b) of the Haryana Civil Services Rules has been initiated or contemplated against the petitioner by the respondents. In the case of Hans Raj Sharma vs. Uttar Haryana Bijli Vitran Nigam Limited & others; 2004 (4) SCT 117; passed by Hon'ble Division Bench of this Court, it has been held that issuance of charge-sheet is sine-qua-non for initiation of departmental inquiry. Subsequently, the afore-said authority is relied upon by a Division Bench of this Court in the case of Ram Narain Dua vs. Dakshin Haryana Bijli Vitran Nigam Ltd. And others; 2007 (1) SCT 161.”

3. On the short ground impugned letter dated 21.02.2013 (Annexures P-2) is not sustainable in the eyes of law and is liable to be quashed.

4. Accordingly, instant petition is allowed and impugned order dated 21.02.2013 (Annexures P-2) is quashed. Consequently, respondents are directed to refund the amount already recovered from the petitioner that too, along-with interest @ 9% per annum within a period of two months from the date of receipt of certified copy of this order. Similarly, respondents are also directed to release the other retiral benefits, which are due to the petitioner within the afore-said period, if not released.

5. In case of non-compliance of order, petitioner shall be at liberty to approach this Court.

FEBRUARY 20, 2018
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(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>