

In the High Court of Punjab and Haryana at Chandigarh

CWP No.5909 of 2017 (O&M)

Date of decision: November 22, 2018

Amrik Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Puneet Kumar Bansal, Advocate for the petitioner.
Ms. Anju Arora, Additional Advocate General,
Punjab.
Mr. Sanjeev Sharma, Advocate for respondent No.3.
Mr. Charanjit Sharma, Advocate for respondent No.4.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the petitioner is claiming a direction to the respondents to release retiral benefits such as Gratuity, Leave Encashment, Provident Fund along with interest @ 18% per annum. The case which has been set out in the present writ petition is that the petitioner joined as a Clerk on 03.01.1978 and remained posted as such with the Municipal Council, Ferozepur. Thereafter, the petitioner was promoted as inspector, which is a Provincial Cadre and on promotion, he was posted at Municipal Council Jalalabad on 02.04.2013. The petitioner kept on working till

he attained the age of superannuation on 30.06.2016. The pensionary benefits are to be released by the Municipal Council from where an employee get retired and, therefore, the pensionary benefits are to be released by the Municipal Council, Jalalabad.

It has been admitted by the counsel for respondent No.4 i.e. Municipal Council, Ferozepur that Municipal Council, Ferozepur is to reimburse the liability of pensionary benefits for the period when the petitioner had worked with the Municipal Council, Ferozepur i.e. from 03.01.1978 till 02.04.2013. It is only after the Municipal Council, Ferozepur makes good the liability to Municipal Council, Jalalabad, the same is to be paid to the petitioner by the Municipal Council, Jalalabad.

During the course of hearing, liability to pay has not been denied by the Municipal Council, Ferozepur i.e. respondent No.4. Financial crunch is being cited as reason for the non-release of amount in favour of the petitioner. It is a settled proposition of law as settled by this Court in **Ram Karan Vs. Managing Director, Pepsu Road Transport Corporation and another, 2005(4) SCT 438** that financial crunch is not a good ground to withhold or deny the pensionary benefits to an employee, who has rendered the services to an authority. While referring to **All India Imam Organisation and others Vs. Union of India and others, 1993(3) SCC 584**, it was held as under:

“6.....Much was argued on behalf of the Union and the Wakf Board that their financial position was not such that they can meet the obligations of paying the Imams as

they are being paid in the State of Punjab. It was also urged that the number of mosques is so large that it would entail heavy expenditure which the Boards of different States would not be able to bear. We do not find any correlation between the two. Financial difficulties of the institution cannot be above the fundamental right of a citizen. If the Boards have been entrusted with the responsibility of supervising and administering the Wakf then it is their duty to harness resources to pay those persons who perform the most important duty namely of leading community prayer in a mosque the very purpose for which it is created.”

It is an admitted case that approximately ₹6 lacs are still due to be transferred by the Municipal Council, Ferozepur to Municipal Council, Jalalabad so as to be paid to the petitioner as pensionary benefits on account of Gratuity, Leave Encashment and Provident Fund etc. There is no valid justification given by counsel for respondent No.4 to withhold the said amount. Financial crunch is not a valid ground to deny the retiral benefits to an employee as already held by this Court in **Ram Karan's case (supra)**. More so, nothing has been placed on record to show that there is financial crunch with the Municipal Council, Ferozepur.

Counsel for respondent No.4 states that some time be given to deposit all the amount for which the petitioner is entitled for with the Municipal Council, Jalalabad.

Counsel for respondent No.3 states that the share of Municipal Council, Jalalabad to be paid to the petitioner on account of his retirement has already been paid and the said fact has been

duly admitted by the counsel for the petitioner. It is only the amount which respondent No.4 Municipal Council, Ferozepur is to remit in favour of Municipal Council, Jalalabad to be paid to the petitioner, remains to be paid.

In view of the above, counsel for respondent No.4 is granted three weeks time to pay all the retiral dues for which the petitioner is entitled for the services rendered by him in Municipal Council, Ferozepur along with interest @ 9% from the date the amount became due. On the receipt of said amount from respondent No.4, respondent No.3 will immediately disburse the same to the petitioner without any delay within a period of 15 days.

In view of the above, no further order is required for. The writ petition stands disposed of in the above terms.

(HARSIMRAN SINGH SETHI)

JUDGE

November 22, 2018

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Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No