

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVIL

WRIT PETITION No.36363 of 2016

ORDER:

This writ petition is filed seeking the following relief :-

“.....to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not paying the due retirement benefits in pursuance of the Retirement in Proc.No.E1/693(3)/2014-SDPT, Dt.1.11.2014 as high handed and arbitrary action, violative of Articles 19 (1) (f) and 31(1) of the constitution of India and as such liable to be set aside in the interest of justice with a consequential direction to pay the service benefits of the petitioner like 1) 10% of Gratuity, 2) Leave Encashment, 3) DA arrears, 4) Last Month Salary and other benefits along with interest”.

Heard Mr.S.M.Subhan, learned counsel appearing for the petitioner and Si N.Vasudeva Reddy, learned Standing Counsel for the respondents.

It has been contended by the petitioner that he was appointed as a Conductor with the respondents and after rendering considerable length of service, he retired on 01.11.2014 on attaining the age of superannuation. The respondents have not paid entire terminal benefits to the petitioner on the ground that the Caste Certificate produced by him at the time of his initial appointment was not found to be genuine. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner submits that after retirement, the respondents have not paid entire terminal benefits to the petitioner and the same is not permissible in view of the law laid down by the Hon'ble Supreme Court in *STATE OF PUNJAB AND OTHERS Vs. RAFIQ MASIH (WHITE WASHER) AND OTHERS*¹. Therefore, appropriate orders be passed in the writ petition directing the

¹ (2015) 4 Supreme Court Cases 334

respondents to pay entire terminal benefits to the petitioner within a reasonable period of time.

The learned Standing Counsel appearing for the respondents has contended that since the petitioner has obtained employment with the respondent Corporation by submitting fake caste certificate, the respondents have rightly withheld some amount from the terminal benefits of the petitioner. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the respective parties, is of the considered view that the Hon'ble Supreme Court in the aforesaid judgment at para '18' had illustrated certain guidelines under which an employer can recover amount from the employees after retirement. From a perusal of the facts in the instant case, it is evident that the facts in the present case clearly attract the guidelines issued by the Hon'ble Supreme Court in the aforesaid judgment. Therefore, the action of the respondents in withholding some amount from the terminal benefits of the petitioner is illegal and arbitrary.

Hence, the writ petition is allowed and the respondents are directed to pay entire terminal benefits to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No order as to costs.

With the above observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

