

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14764 of 2017
Date of Decision: 23.05.2019

Charanjit Singh

... Petitioner

VS.

BBMB & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. AK Walia, Advocate for the petitioner

Mr. Sumit Gupta, Advocate for the respondents

G.S. SANDHAWALIA, J. (Oral)

The petitioner under Articles 226/227 of the Constitution of India seeks a writ in the nature of mandamus directing the respondents to immediately release the pension, commuted value of pension and retirement gratuity with interest 12% p.a. from the due date and further seek a declaration that the action withholding the retiral benefits of the petitioner is wrong, unjust and arbitrary.

The case is that the petitioner was appointed as T-Mate with the respondent-Board on 07.07.1978 and thereafter was appointed as Assistant Lineman on regular basis and earned promotion in 2001 as Lineman with the respondent-Board. He retired from service on 31.12.2015 after attaining the age of 60 years and the retirement order is appended as Annexure P1. A perusal of the retirement order as such would show that the pensionary benefits and other dues of the retiree were to be released expeditiously.

The only ground which has been taken for withholding the pensionary benefits of the petitioner is that the petitioner is an encroacher and has encroached illegally upon the land belonging to BBMB against the terms and conditions of the lease deed. A memo has been issued to the

petitioner to remove the encroachment made at shop No.8, Main Market Ganguwal. It has further been averred that the proceedings before the Civil Court are also pending for removal of the said encroachment and even contempt proceedings are pending before the Civil Court.

It is the case of the petitioner that the shop in dispute on which the alleged encroachment has been made was initially leased out in favour of the father of the petitioner Dalip Singh on 01.10.1970 and thereafter the same continues to be in his possession. Admittedly no such proceedings have also been initiated against the petitioner or family members for vacation from the said property though a suit for permanent injunction as such has been filed (P3) regarding forcible possession and raising construction on superstructure etc.

Thus no tenable reason is made out to withhold the retiral benefits and there is no justification as such that there is a litigation on account of alleged encroachment. The same has no relation as such to the retiral benefits of the petitioner which has wrongly been withheld since 31.12.2005. Accordingly, the action as such of the respondents cannot be held to be justified in any manner. Thus direction is issued to release the retiral benefits including pension and gratuity. The interest element on the delayed payment will be 9% from 01.04.2016.

The needful shall be done within two months from the date of receipt of certified copy of this order.

Over and above the retiral benefits and interest, the petitioner shall also be entitled to cost of Rs.10,000/- on account of the unjustified action of the respondents and for not taking any action to release the retiral

benefits in spite of the fact that the law stands settled by the Full Bench in
A.J. Randhawa v. State of Punjab 1997 (3) RSJ 318.

23.05.2019
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(G.S. Sandhawalia)
Judge

- 1. Whether speaking/reasoned?*

Yes/No
- 2. Whether reportable?*

Yes/No